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House of Representatives

The House met at 10 a.m.

The Reverend Kevin Gormley, Pastor, St. Peter Church, Marshall, Missouri, offered the following prayer:

God, Creator of all life, we bow our heads and ask Your guidance to carry out the awesome responsibilities we have before us. May we be at peace among ourselves and at peace individually with the decisions we have made. As we serve here in the hallowed House, keep us aware that we have our family house demanding our time and attention.

We celebrate the 60th year since the end of World War II. President Harry S Truman, from my great State of Missouri, had to make tough decisions at a difficult time in our country's history. He started his presidency by making the prayer of Solomon his own prayer:

''God, give me the wisdom I need to rule Your people with justice and to know the difference between good and evil. Otherwise, how can I lead this great people of Yours?''

Father, may we who are leaders and all the leaders in this great Nation turn to You for guidance and listen to Your response as we seek a lasting peace in our troubled world. 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 Nebraska (Mr. TERRY) come forward and lead the House in the Pledge of Allegiance.

Mr. TERRY led the Pledge of Allegiance as follows:

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

MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed bills of the following titles in which the concurrence of the House is requested:

S. 1235. An act to amend title 38, United States Code, to extend the availability of $400,000 in life insurance coverage to servicemembers and veterans, to make a stillborn child an insurable dependent for purposes of the Servicemembers' Group Life Insurance program, to make technical corrections to the Veterans Benefits Improvement Act of 2004, to make permanent a pilot program for direct housing loans for Native American veterans, and to require an annual plan on outreach activities of the Department of Veterans Affairs.

S. 1786. An act to authorize the Secretary of Transportation to make emergency airport improvement project grants-in-aid under title 49, United States Code, for repairs and costs related to damage from Hurricanes Katrina and Rita.

INTRODUCING THE REVEREND FATHER KEVIN GORMLEY

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

Mr. SKELTON. Mr. Speaker, it is my privilege today to introduce to my House colleagues our guest chaplain, Father Kevin Gormley, pastor of the St. Peter Catholic Church in Marshall, Missouri. Father Gormley was born in Ireland and studied for the priesthood at All Hallows College and Seminary in Dublin. Following his ordination in 1964, Father Gormley came to the United States. Since that time, he has spent 41 years serving in the parishes of Central Missouri where he is widely known, highly respected, and very much loved. Father Gormley became an American citizen in 1975. In July, 2000, he became the pastor of St. Peter Catholic Church in Marshall, Missouri where he currently serves and resides.

Father Gormley also serves as pastor of Holy Family Church, Sweet Springs, Missouri, and as the administrator of St. Peter School. Father Gormley also serves the community as a member of the Ministry of Alliance and as the Catholic Chaplain for the Marshall Habitation Center.

I thank Chaplain Coughlin for his kind invitation to Father Gormley to offer the opening prayer, and would like to thank Father Gormley for traveling to our Nation's capital to be with us today.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain five 1-minutes on each side.

FISCAL RESPONSIBILITY

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

Ms. FOXX. Mr. Speaker, these past few weeks have tested our Nation's emergency response system, our compassion, and the Congress' ability to set spending priorities.

One thing is clear, Republicans are still the party of fiscal responsibility which has helped grow the economy and bolster jobs. In fact, over the past 2 years, our Nation has created millions of jobs, the unemployment level has dropped dramatically, and our economy has grown.

Like families, we make tough decisions. Over the past year, we terminated 98 programs which will save taxpayers over $4.3 billion. But given our new challenges, I am pleased that the House will exercise oversight of disaster expenditures to ensure that the funds are being spent properly by implementing several checks and balances: Sending investigators to the gulf to monitor disaster expenditures,

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convening dozens of hearings to hear from officials at all levels of government on how funds are utilized, and mandating weekly reports on expenditures, and conducting audits and investigation on disaster assistance.

While I hope we will do more to cut spending and provide accountability, we all know that the Democratic plan is simply to spend, spend, and spend some more.

EXPIRING MEDICARE PROGRAM NEEDS URGENT CONSIDERATION

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

Mr. KUCINICH. Mr. Speaker, I want to bring to the attention of the House a matter that really needs urgent consideration. There are 160,000 elderly and disabled Americans who depend on Medicare part B, a program called the QI program, qualified individual. That program is due to expire on Friday. That program, that benefit, pays Medicare part B benefits to people with incomes that are 120 percent to 135 percent of the Federal poverty level. How that translates is that people who are making less than $1,092 per month as an individual or $1,459 per couple, they are due to lose their benefit which, for some people, would be almost 10 percent of their income. The Medicare part B insurance program covers medical services like physician service, lab service, durable medical equipment, outpatient and home health visits. We have a bipartisan bill sponsored by myself and the gentleman from Ohio (Mr. LATOURETTE), H.R. 3800. We have to act in the next 24 hours to save the financial condition for 160,000 elderly and disabled Americans.

ENERGY SECURITY

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

Mr. PRICE of Georgia. Mr. Speaker, over the past several years, we have all gained firsthand experience on the effects of America's outdated energy system with gas prices going up and down. Atlanta, my home, has seen gas prices anywhere from $3 to $6 a gallon. The results of Hurricanes Katrina and Rita show all of us how terribly dependent we are on foreign sources of oil.

This is a large and complex issue and not a challenge easily solved. Our recently adopted new national energy policy will put us on the right track, but more is needed. It is critical that we address some of the systemic failures that have kept us dependent on others for energy and kept us from aggressively developing a reliable alternative source. While our economy expanded over the past decades, our ability to refine oil actually decreased. Since 1981, we have lost over half of our refineries. The most dynamic Nation in the world has not built a new refinery in 25 years. We are more dependent now on foreign oil than ever before.

We must move away from foreign fuel sources and move toward a solution that maximizes alternative fuel. Mr. Speaker, energy independence is not just energy security, it is national security.

MORE MONEY FOR GUARD EQUIPMENT NOW

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

Mr. DEFAZIO. Mr. Speaker, about 2 years ago, I traveled to Fort Hood, Texas, to see my Guard unit before their deployment to Iraq. I was surprised to see that they were using radios that their families had bought for them at a place called GI Joe's, a good store in Oregon in the Northwest. But the point is they did not have the equipment they needed, they could not train on the equipment they were going to use in Iraq, and now it turns out that that equipment is not available in the United States of America to the National Guard.

Yesterday, Lieutenant General Steven Blum, chief of the National Guard Bureau, said he has about 34 percent of what is needed for the National Guard for equipment for homeland security, for emergencies, disasters or terrorist attacks. Thirty-four percent. He has radios, he said, that cannot communicate with the Army radios because they are Korean War vintage radios. This is an embarrassment for this country. This administration must give the Guard the tools it needs. We don't have to talk about a bigger role for the active duty military. We need to give the National Guard, who does not have problems with posse comitatus and other things, who performed admirably in this disaster, the tools they need for future disasters.

More money for Guard equipment now.

HURRICANE SAFETY ON THE CAPE VINCENT AND CAPE VICTORY

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

Mr. POE. Mr. Speaker, as the howling winds and incessant rain from the ''Lady of the Gulf—Rita'' moved closer to southeast Texas, 90 percent of the population in my district evacuated, but the first responders in Beaumont and other towns were worried about where to ride out the looming summer storm and potential floods.

Docked in the Port of Beaumont were the Cape Vincent, helmed by Captain David Scott, and the sister ship Cape Victory, with Captain Kevin Brooks. These two massive vessels transport military cargo to Iraq and Afghanistan.

The captains and the mayor, Guy Goodson, met briefly. The plan: Use the ships. The ships were loaded with first responders and police cars, fire trucks, ambulances, city dump trucks, front end loaders and even police helicopters. The expert ship crews coolly but quickly took little time in safely securing our first responders and their equipment. Tugs in the port operated during the howling hurricane winds to secure the ships.

In this operation, there was no senseless red tape, no forms were filled out, no committees met, and no permission from bureaucrats was sought. The people of Texas appreciate Captain Brooks and Captain Scott and their crews for, as we say in Texas, ''Gittin' 'er done.''

GAMING INDUSTRY AND TAX BREAKS

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

Ms. BERKLEY. Mr. Speaker, when Hurricane Katrina hit the gulf coast, homes and businesses were destroyed and people were left with nothing. To help those in Louisiana and Mississippi return home and go back to work, the gulf coast region must be rebuilt. The gaming industry will invest billions of dollars as it rebuilds the gulf region, making it an essential part of restoring employment, economic growth and tax revenue. Congress must not withhold incentives to rebuild from any employer that provides good jobs and tax revenue if we want to revive the economy of this region.

There is a movement in Congress led by the self-righteous anti-gaming police to single out the gaming industry and prohibit it from receiving needed tax incentives to rebuild. I did not see any Members of Congress, and certainly not FEMA officials, handing out paychecks to out-of-work employees in the gulf coast region. I did see CEOs of gaming companies standing there in the muck up to their ankles handing out checks to their employees.

Contrary to the biased view of some, the gaming industry should be fairly and equally like any other business when Congress develops legislation to help rebuild this region. The gaming companies remain committed to the communities and the people in the affected regions.

□ 1015

IMMIGRATION REFORM

(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, we need comprehensive immigration reform. Specifically, we need reform to support those who enforce our laws, instead of rewarding those who break them. The United States may need a temporary worker program, but definitely not an amnesty program. Our immediate need is more border patrol agents and diligent cooperation from local and State law enforcement agencies.

The repercussions of poor immigration enforcement have a ripple effect across our entire Nation; and, indeed, an estimated 376,000 illegal immigrants are putting a tremendous financial strain on my State of Georgia. Every day we put off debating and passing comprehensive reform allows more opportunities for illegal immigrants to break our laws and cross our borders.

Mr. Speaker, illegal immigration is not a victimless crime, and I request my colleagues' support for real immigration reform.

QUESTIONING OF THE RESPONSE TO HURRICANE KATRINA AND HURRICANE RITA

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, I ask to remove my name from H.R. 3824 if the report has not yet been filed. If it has been filed, I would ask that it be placed in the RECORD that if the manager's amendment is not approved, I will be voting ''no'' on H.R. 3824.

Let me say, Mr. Speaker, I also want to add to the questioning of the response dealing with Hurricane Katrina and Hurricane Rita. I think it is imperative that committees of the House, particularly the Committee on Homeland Security, move forward with questioning how those who were in desperate need were responded to and how the chain of command performed.

The question was always who was in charge. I raise the question as well, whether there was sensitivity or sensibilities in contracting with the cruise line, $246 million, to house individuals who had already been in water beyond belief. I would ask that that be investigated because those cruise ships are now sitting empty, and we are paying $1,000 a week for empty cruise ships.

ADVERSITY REVEALS CHARACTER

(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, a determined enemy abroad, catastrophe and political upheaval at home, these are times, as Thomas Paine wrote, that try men's souls.

But adversity does not create character. Adversity reveals character; and like the great Nation we serve, the character of this Republican majority under Speaker Dennis Hastert is strong, courageous, and will do the work the American people sent us here to do.

We will support the war on terror through to victory. We will rebuild our coastline with fiscal responsibility. We will close our borders and end our dependence on foreign oil. We will do this because the character of this Congress reflects the character of America, and that character is strong.

AMERICAN PARITY

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

Mr. EMANUEL. Mr. Speaker, I find the debate over how we are going to pay for the reconstruction and revitalization of the gulf coast ironic because in the past few years this body has allocated nearly $400 billion for the war in Iraq, without a peep, just a rubber-stamp Congress.

We have added $3 trillion to our national debt with annual deficits at $400 billion as far as the eye can see.

This has become the Congress known for hot checks. Yet when this Congress faces a tab for rebuilding America and American lives that is less than half of what we have spent in Iraq, suddenly everyone here is wearing green eye shades.

In Iraq, we have spent millions to rebuild the Sweet Water Canal System, rebuilding and repairing the levee system; and here in America, we cut the levee construction down in Louisiana by 80 percent.

Tuesday's Christian Science Monitor reported that the National Guard's response to Katrina was hampered by a lack of equipment because two-thirds of that equipment is in Iraq.

We need a new direction with new priorities. We need a Congress that is going to put some checks and balances and not act like a rubber stump.

In the coming weeks, I intend to reintroduce the American Parity Act, a bill to ensure that, as we rebuild Iraq, we ensure that we also rebuild America.

This Congress cannot have one set of books, one set of priorities for Iraq, and another one for the American people.

PROVIDING FOR CONSIDERATION OF H.R. 3824, THREATENED AND ENDANGERED SPECIES RECOVERY ACT OF 2005

Mr. HASTINGS of Washington. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 470 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 470

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. 3824) to amend and reauthorize the Endangered Species Act of 1973 to provide greater results conserving and recovering listed species, 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 ninety minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Resources. After general debate the bill shall be considered for amendment under the five-minute rule. In lieu of the amendment recommended by the Committee on Resources now printed in the bill, it shall be in order to consider as an original bill an amendment in the nature of a substitute consisting of the text of the Resources Committee Print dated September 26, 2005. That amendment in the nature of a substitute shall be considered as read. All points of order against that committee amendment in the nature of a substitute are waived. Notwithstanding clause 11 of rule XVIII, no amendment to that amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

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

Mr. HASTINGS of Washington. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), 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. HASTINGS of Washington asked and was given permission to revise and extend his remarks.)

Mr. HASTINGS of Washington. Mr. Speaker, House Resolution 470 is a rule providing for consideration of H.R. 3824, the Threatened and Endangered Species Recovery Act of 2005. The rule provides for 90 minutes of debate equally divided and controlled by the chairman and ranking minority member of the Committee on Resources and waives all points of order against consideration of the bill.

House Resolution 470 provides that, in lieu of the amendment recommended by the Committee on Resources now printed in the bill, the amendment in the nature of a substitute consisting of the text of the Committee on Resources print dated September 26 shall be considered as an original bill for the purpose of amendment and shall be considered as read. The rule waives all points of order against the committee amendment in the nature of a substitute.

House Resolution 470 makes in order only those amendments printed in the

Committee on Rules report accompanying the resolution. The rule provides that amendments printed in the report may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and opponent, shall not be subject to amendment, and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole.

Lastly, the resolution waives all points of order against amendments printed in the report and provides one motion to recommit, with or without instruction.

Mr. Speaker, the Threatened and Endangered Species Recovery Act is one of the most important bills we will consider on species recovery and property rights this year. I commend the gentleman from California (Chairman POMBO) and other members of the Committee on Resources and their staffs who have worked hard to bring this legislation to this point. The result of their efforts is a solid bipartisan bill that updates key parts of the Endangered Species Act and provides enhanced protection for property owners.

For people of the rural West where I live, there are few more important matters than modernization of the ESA. Unfortunately, some of the most well-known examples of the ESA problems have occurred in my region of the country, the Pacific Northwest.

For example, Mr. Speaker, the Northwest timber industry was decimated by the listing of the spotted owl 15 years ago, only to discover that today, the spotted owls have actually been endangered and displaced by other owls. Imagine if we had emphasized recovery then. How many family-wage jobs would have been saved and how many more spotted owls would we have today?

Four years ago, water to family farms in the Klamath Basin in Oregon was cut off in the name of the sucker fish, when everyone knew there were other measures that would truly help species recover without bankrupting businesses and families. Every summer, in excess of $3 million is being spent per listed salmon. Mr. Speaker, let me repeat that. Every summer in excess of $3 million per salmon is spent to spill water over dams, even though science and common sense tells us that there are better ways of species recovery.

This is all the result of the Endangered Species Act becoming too driven by litigation and conflict. Simply put, this act is broken, and it is in need of updating.

If we put off modernizing the ESA, it is not just the people of my region that will suffer. It is also the animals and plants that the ESA is supposed to protect that are the victims. ESA's record of recovery of listed species is abysmal. Less than 1 percent of the species listed under the act have actually been recovered. According to the Fish and Wildlife Service, only 6 percent of the species are categorized as recovering. Each year, Federal agencies are spending more on paperwork, process, court cases, and lawyers and less on real on-the-ground recovery efforts. We, frankly, must reverse this trend.

The Threatened and Endangered Species Recovery Act puts the priority where it should be, on recovery. This bill will require agencies to complete recovery plans within 2 years of listing. These plans will require the identification of lands important for species recovery, in lieu of the cumbersome and litigation-driven critical habitat process.

In addition, the bill authorizes collaborative recovery teams made up of a diverse group of stakeholders, including people with conservation expertise as well as those whose livelihoods are affected by environmental policies. Again, there is a fundamental shift here from confrontation and litigation to cooperation and recovery. It is long overdue.

This legislation also offers important new tools for encouraging voluntary participation in species recovery efforts by private property owners. The ESA is currently written with its emphasis on punitive measures and regulation serves as a disincentive for any private property owner to provide habitat for a listed species.

This legislation provides ''no surprises'' protections for land holders entering into habitat conservation plans with the government. In addition, this bill offers financial aid to those whose property has been restricted for conservation purposes. After all, species recovery is a national goal that benefits all Americans, and the cost of that effort should not fall solely on the shoulders of land holders.

Another important improvement in the ESA that this bill would provide is strengthening the science and data used in decision-making. This legislation puts the emphasis on objectively quantifiable and peer-reviewed science. Stronger science and ESA information will result in our limited Federal resources going to where they will do the most good, while reducing instances of drastic Federal actions being taken on poor or limited data. These are the things that we should all be able to agree upon.

H.R. 3824 is a solid bipartisan bill that will do much to bring this important law up to date. I again commend my colleagues for their hard work on this legislation, and I urge my colleagues to support both the rule, House Resolution 470, and the underlying bill.

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

Mr. MCGOVERN. Mr. Speaker, I thank the gentleman from Washington for yielding me the customary 30 minutes, and I yield myself such time as may consume.

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

□ 1030

Mr. MCGOVERN. Mr. Speaker, today, this House stands at a very important crossroad. We are faced with a decision that will have severe consequences for years to come. On one side, we have this bill, the Threatened and Endangered Species Act, facing off on the other side against sound, science-based environmental policy.

The Republican leadership had a unique opportunity to provide us with a carefully constructed bill, one that strengthens current protections for endangered species while also finding the necessary balance between property rights and environmental concerns. But, instead, the bill that we have before us essentially guts the Endangered Species Act. It is as simple as that, and it certainly comes as no surprise.

In 1994, many Republicans were elected to this body promising to repeal the Endangered Species Act. There are dozens of news stories describing rallies and press conferences held by opponents of the Endangered Species Act. For many who now sit on the Committee on Resources, including the distinguished chairman, eliminating the Endangered Species Act was almost a singular campaign issue. Ten years after the Republicans took control of the House, they may be one step closer to repealing one of the most successful environmental laws in the history of the country.

Dismantling the Endangered Species Act has also been a top priority of the Bush administration. One of the sad realities of the Republican control of our government is their absolute contempt for the environment. Since they have taken control of the Congress, they have been rolling back environmental protections nonstop. This bill, unfortunately, falls into that tradition.

Make no mistake about it, Mr. Speaker, this bill is not about fixing the Endangered Species Act, it is about gutting it. In fact, just months ago, legislation was drafted and subsequently circulated by the Chair of the Committee on Resources that would have completely eliminated endangered species protections over the next 10 years. Fortunately, that bill failed to ever come before the committee for consideration.

Instead, here we are with their next best thing, or should I say the next worst thing, H.R. 3824. While this legislation does not go as far as to formally repeal the Endangered Species Act, it burdens the current system with a weakened mandate, limited funding, and minimal protections.

Now, let us be clear about what we are debating here today. The bill before us is a major first step toward complete elimination of the Endangered Species Act. For proof, we only have to look at the Endangered Species Act itself. Over 30 years ago, the Endangered Species Act was signed into law by President Richard Nixon, and in the years that followed, it became renowned as one of our Nation's most

successful, effective, and vital conservation laws.

The Endangered Species Act alone has been credited with saving hundreds of species from extinction, most notably the Florida manatee, the California condor, and the bald eagle. According to the U.S. Fish and Wildlife Service, 99 percent of the species ever listed under the Endangered Species Act remain on the planet today.

The current Endangered Species Act did this by banning hazardous pesticides, like DDT; protecting natural habitats and instituting and enforcing a science-based decision-making process. But the benefits of the Endangered Species Act extend far beyond protections for any one or group of endangered plants or animals. In fact, there are clear economic benefits to this law.

Each year, hunting, fishing, and wildlife watching bring in over $100 billion in revenue. These industries alone employ 2.6 million people each year. For example, the reintroduction of the gray wolf into Yellowstone National Park 10 years ago increased revenues in adjacent local communities by $10 million annually. Imagine the impact the bill before us could have on local economies that depend on recreation and ecotourism for jobs and tax revenues. It could be devastating.

H.R. 3824 takes us back to the bad old days and completely repeals protections against the use of hazardous pesticides, and removes one of the most important parts of the Endangered Species Act, the protection of critical habitat. No alternative is provided, and in the end, the U.S. Fish and Wildlife Service is left in an unenforceable and nonbinding mandate.

Finally, Mr. Speaker, this bill creates an endless slush fund for private developers. This is one of the most shocking proposals I think I have seen. We do not pay power plants not to violate clean air laws, nor provide incentives for businesses to comply with the minimum wage standards. But under this bill, we would pay landowners to not break the law.

What is the cost of this sweetheart deal? According to the Congressional Budget Office, the full price tag of this deal could reach $2.7 billion over the next 5 years. That amounts to an additional $118 million in the first year alone.

So contrary to what the proponents of H.R. 3824 will say today, this is really a new entitlement for developers and other business interests. It allows direct spending that will not only be expensive, but will drain the resourses from other important environmental programs.

With the largest deficit in American history, with mounting costs from the recent hurricanes, and with the war still raging in Iraq and Afghanistan, is this the right time to open a slush fund that will funnel millions of dollars to developers and businesses, while undoubtedly resulting in the extinction of unique animals and habitats across this country?

I hope that my colleagues on both sides of the aisle will take a close look at this legislation and recognize it is not our only option.

Yes, the Endangered Species Act could benefit from revisions. Everybody will agree with that. But this bill is not the answer. And it is for this reason that I would urge my colleagues to support the Miller-Boehlert substitute, and I commend my colleagues for their hard bipartisan work.

Together, they have drafted a substitute that protects private landowners from unnecessary government regulation while also preserving current initiatives that have proven successful. On a smaller scale, a similar approach has been overwhelmingly successful in my home State of Massachusetts. In 1985, the piping plover, a small shore bird, was in steep decline. There were approximately 130 pairs remaining in the United States. But in just 14 years, they have made a dramatic comeback, and this was largely the result of coordinated efforts between conservationists and private land managers.

Mr. Speaker, I am not the only one who feels this way about H.R. 3824. Environmental and animal rights groups strongly oppose this bill, and so do many of the Nation's leading editorial pages: The New York Times, The Boston Globe, The Los Angeles Times, The Seattle Post Intelligencer, The Idaho Falls Post Register, to name a few, all oppose scrapping the Endangered Species Act. But I want to read from the hometown newspaper of the first President Bush and the gentleman from Texas (Mr. DELAY), The Houston Chronicle:

''After 32 years of success, the Endangered Species Act may need streamlining and adjustment to the realities of the continued development of rural areas of the country. It should not be destroyed and replaced with a law that would give all the advantages to business interests and allow the Secretary of the Interior to play God with the Nation's biodiversity.''

The Miller-Boehlert amendment is proposed to modernize responsibly the Endangered Species Act. It is clear that times have changed since President Nixon signed this bill into law. But the challenge is to update the Endangered Species Act responsibly, and H.R. 3824 does not do that. A vote for this bill is a vote to repeal the Endangered Species Act. A vote for this bill is a vote to once again threaten national treasures like the bald eagle, the grey wolf, the Florida manatee, and the piping plover with extinction, and I would urge my colleagues to oppose this bill.

Mr. Speaker, I submit herewith for the RECORD the editorial I quoted from earlier:

AN ENDANGERED ACT

[From the Houston Chronicle, Aug. 12, 2005]

Since President Richard Nixon signed it in 1973, the Endangered Species Act has prevented the extinction of hundreds of species of American plants and animals, restoring many to sizable populations. In the process of designating 1,370 species eligible for protection, the act also has generated court battles by opponents who chafed at restrictions on commercial development of essential habitat.

Backed by land development and agricultural interests, as well as the Bush administration, several members of Congress are pushing legislation that would gut what some consider the most important environmental law in U.S. history. U.S. Rep. Richard Pombo, R-Calif., who chairs the House Resources Committee, has offered a draft bill that would replace the Endangered Species Act and cancel all agreements to protect threatened species.

Environmentalists charge that Pombo's bill eliminates any provision to help species recover from near extinction and effectively forbids the designation of critical habitats on virtually all federal land. The existing law requires that species be protected if they are endangered in a significant portion of their range. Pombo's draft narrows that requirement to species threatened throughout their range.

This month the U.S. Fish and Wildlife Service adopted similar reasoning when it proposed the removal of the pygmy owl in Arizona from the list of threatened species because healthy populations exist in Mexico. Under President Clinton the agency had proposed designation of 1.2 million acres in the state as critical habitat. Under the Pombo standard, animals such as the grizzly bear, bald eagle and timber wolf, with large populations in Alaska, would not have qualified for protection in other parts of the United States.

Polls consistently have found that Americans strongly support the act's protections for threatened wildlife. The Supreme Court recently refused to hear a challenge to enforcement of the act brought by developers in a dispute involving the endangered Kretschmarr Cave mold beetle in Texas.

Pombo's bill would allow the secretary of the interior to determine what scientific evidence is relevant in deciding if a species is endangered and give the secretary the power to overturn decisions by federal biologists and wildlife managers. It would saddle agencies with massive paperwork and create an appeals process that could be launched by any person affected by an agency decision or habitat conservation plan.

After 32 years of success, the Endangered Species Act may need streamlining and adjustment to the realities of the continued development of rural areas of the country. It should not be destroyed and replaced with a law that would give all the advantages to business interests and allow the secretary of the interior to play God with the nation's biodiversity.

When Congress returns from its summer recess, Texas representatives and Sens. Kay Bailey Hutchison and John Cornyn should insist that any changes to the Endangered Species Act be aimed at improving its effectiveness. Texans are justly proud of the vast array of wildlife that thrives in protected forests, mountains and marshes across the state. Let's make sure that natural treasure is preserved for the benefit of future generations.

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

Mr. HASTINGS of Washington. Mr. Speaker, I yield 4 minutes to the gentleman from Utah (Mr. BISHOP), a valued member of the Committee on Rules.

Mr. BISHOP of Utah. Mr. Speaker, I am pleased that both sides of the aisle

have recognized the need of some modifications in the Endangered Species Act.

I would like to, Mr. Speaker, introduce you to a man by the name of John Gochnauer. John Gochnauer was the shortstop for the Cleveland Indians in 1902 and 1903. In 1902, playing full-time at shortstop for the Indians, he hit a paltry .185 and committed a whopping 48 errors in that position. Nonetheless, he came back the next year to play for them in 1903, where he once again, full-time player, hit .185, and this time set a major league record, which has yet to be broken, of committing 98 errors as shortstop, which means out of every five times, he touched the ball, he booted or threw it away once.

The Endangered Species Act has established 1,300 species for preservation and has been able to preserve 12 of them, giving that act a batting average of .010, if you round up. Whereas John Gochnauer hit .185, the Endangered Species Act is hitting .009, which means the Endangered Species Act is the most inept program we have in the Federal Government. The Endangered Species Act is the John Gochnauer of Federal programs.

The reason is quite simple. The Endangered Species Act creates more harm than it does good. Because if you are a good steward of the land, your practices which create and preserve habitat make you then open to government control and government regulations and produce an attitude of distrust and hatred.

The Endangered Species Act is not there to prevent development or to change land use. It actually penalizes the practices that help in the process, which is one of the reasons why this bill before us recognizes that, and especially in 13(d), a section that is in the bill but not in the substitute. It is there to provide grants to encourage cooperation to solve the problem, not to encourage people running away from the fear of the Federal Government's control.

I think that is probably one of the reasons why this bill is one of those unique bills to come before this body in which a majority of both parties in committee voted to support this particular bill. This bill is indeed one of modifications. It is a modification.

I want to introduce you to one other person. I will call him Jim, simply because I do not want to give the full name. Jim should today be a middle-aged person with a family, running a business, and living a healthy life in California. But in 1995, in California, there was a levee that was in need of repair. On that levee they found 43 bushes. The bushes were not part of the Endangered Species Act, but a beetle who could potentially live in those bushes was, even though no beetle was found in those 43 bushes that grew up on that levee after it was built. Nonetheless, a mitigation plan was mandated, even though the directors of the levee said that it would weaken the levee. Sure enough, 1 year later, that levee broke. Five hundred homes were destroyed and three lives were taken, including Jim's.

Mr. Speaker, the record of the Endangered Species Act over the decades here has been one of jobs lost, of property restricted, of homes destroyed and, sadly, of human lives lost. That is why it desperately needs modification. The bill before us does that type of modification.

Mr. MCGOVERN. Mr. Speaker, I appreciate the comments of my colleague on the Committee on Rules, the gentleman from Utah, but he uses statistics very selectively.

Let me cite a more important statistic, and that is more than 1,800 species currently protected by the Act are still with us. Only nine have been declared extinct. That is an astonishing success rate of more than 99 percent. So this has been a successful Act.

I will also provide for the RECORD an article that appeared in the Salt Lake Tribune by Ben Long, who is a contributor to the Writers on the Range, a Service of High Country News, who has written a great article about how the Endangered Species Act succeeds with flying colors.

[From the Salt Lake Tribune, Sept. 24, 2005]

SPECIES ACT SUCCEEDS WITH FLYING COLORS

(By Ben Long)

The Endangered Species Act—which is being reviewed by Congress this week—is a soaring success. Just look up.

Look skyward for a while and you might spy an American bald eagle. Hundreds of them live in my home state of Montana. Across the United States, the bald eagle is a living, flying example of what works about the Endangered Species Act.

Rep. Richard Pombo, R-Calif., is spearheading the effort to change the landmark, 30-year old anti-extinction law. ''The act isn't working to recover species now,'' Pombo said in a recent speech in Washington state. ''At the same time it has caused a lot of conflicts.''

Pombo evidently spends too much time inside his stuffy Washington office. If he got out in the forests and rivers more, he might know the story of the bald eagle.

The American symbol was listed as endangered in 1978. That year, surveys turned up only 12 bald eagle nests in all of Montana. Then, environmental laws such as the Endangered Species Act and a federal ban on the pesticide DDT kicked in. They protected the birds from chemical poisoning, destruction of habitat and needless, wasteful killing.

The results were gradual, but dramatic. By 2005, the number of bald eagle nests in Montana multiplied to 300 nests—25 times the number before the bird was included on the endangered species list.

That's just one state. Eagles were similarly successful in other states as well. In 1999, the bald eagle's status was upgraded from ''endangered'' to ''threatened.'' If trends continue, they will soon be officially recovered and all America will celebrate.

Today, Montana is one of the top 10 eagle-producing states in the United States. In a recent winter, I watched more than 30 eagles clean up a carcass in a rancher's back pasture. Bald eagle congregations have been tourist attractions at places like Canyon Ferry and Libby dams, where they feed on fish in the winter.

No matter how many times I see a bald eagle on the wing, I am taken aback by its beauty—and thankful for the Endangered Species Act.

Conflicts over endangered species make headlines. Success happens in quiet obscurity. But over time, the successes are dramatic indeed.

Gray wolves are another Endangered Species Act success story in the northern Rockies. Wiped out by over-zealous predator control a century ago, wolves began trickling back into Montana in the 1980s. Now, there are hundreds of wolves in western Montana, and more in neighboring Idaho and Wyoming.

Because Montana stepped up to the plate and agreed to manage these animals for the future, the federal U.S. Fish and Wildlife Service recently handed wolf management over to the Montana Department of Fish, Wildlife and Parks. This is evidence of the flexibility built into the law.

While I don't like to see any animal needlessly wasted, I respect that ranchers need to protect their stock to make a living. The Endangered Species Act has allowed wildlife managers to kill problem wolves—even wipe out entire packs that made a habit of killing livestock.

We humans now dominate planet Earth. We share a responsibility not to push species into extinction. For 30 years, the Endangered Species Act has helped keep America the rich and beautiful land we love. My 17-month-old son loves watching finches and chickadees at the feeder outside our kitchen window. He will grow up also watching bald eagles, some perching on a snag close to our backyard.

What a change. When I was a kid, the only eagle I ever saw was on the back of a quarter.

Mr. Speaker, I yield 4 minutes to the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Mr. Speaker, there are some seeds for potential bipartisan agreement. We do need to reauthorize, update, and improve Endangered Species Act. I think there is some fair consensus on that. But we also do not want to go to a time where we have the next passenger pigeon, for instance, where we extirpate a species forever. That is a long time. I wore my eagle tie today in the hope that we will continue to protect the bald eagle, the symbol of our country.

There are some serious problems with the bill that was unveiled last week, hastily pushed through the Committee on Resources, and further changed last evening by a manager's amendment which few have seen. Among them, and one that has to give pause to this body as we wrestle with how we are going to pay for Hurricane Katrina and other essential things here, and how much money is being borrowed in the name of future generations, is a section regarding compensation.

Now, I had hoped to offer an amendment to say that we would compensate people for foregoing the usual historic and accustomed use. If you grow timber and you cannot cut the trees, you get compensated for the trees. If you ranch and you cannot graze the cattle, you get paid the value of the area on which you cannot graze your cattle. If you grew a crop and there is some sort of restriction and you cannot grow that crop, then you would be compensated.

But the bill goes so far beyond that, it is extraordinary. It goes to speculative, proposed, possible, potential use. This is going to create a wonderful new market for speculators. If people across America thought that this was going to become law as written, which it will not, it will be changed dramatically after the Senate acts, if they do act, they would be out right now purchasing, on a speculative basis, or getting options on property that in any way was restricted by the Endangered Species Act. Because they could say, well, it is true that was a tree farm, but actually I was going to build a destination resort on that tree farm. And my destination resort would have provided me with a profit of $1 million a year for the next 30 years. Please pay me $30 million. And the government has 180 days to come up with that money.

Now, there is a low-ball estimate for this new entitlement, and who knows how they came up with it, but they are saying, oh, no, it will only be $5 million to $10 million a year. Come on, only $5 million to $10 million a year? This is going to be hundreds of millions, if not billions a year of a new entitlement. And, remember, the compensation is in an amount no less than the fair market value.

□ 1045

So taxpayers are going to be obligated to borrow money for speculative, possible potential future profits, and maybe even a little on top of that because the Secretary cannot compensate less than the fair market value. It does not say that the Secretary is restricted to the fair market value; if the Secretary feels generous, borrow more money and pay more than the fair market value. It is binding only on the Secretary as I understand in the new manager's amendment.

So the taxpayers are on the hook; but if the property owner says my speculative value was $2 million profit a year for the next 30 years, then that person could go to court. But the government could not go to court to say wait a minute, this is crazy, you really were not going to make $2 million a year on a destination resort on that tree farm. We will compensate you for the loss of harvest of the trees, but we are not going to pay for that speculative value.

I cannot believe that any Member of this House is going to open the doors to the Treasury so wide for potential speculation. That is not compensating landowners for usual, historic, and customary use. If that amendment had been allowed, I think many more Members could support this bill; but that amendment was not allowed here in the House of Representatives today.

There will be only one substitute and a manager's amendment, no other amendments are allowed. This is a perfect bill. After all, it was just introduced last week. It had no hearings. It was marked up one day in committee, and now it has been changed further by a manager's amendment last night which no one has seen. It is a perfect bill, and no amendment should be allowed here on the floor, but we are going to put the taxpayers on the hook for billions of dollars.

Mr. HASTINGS of Washington. Mr. Speaker, I would advise the gentleman from Oregon that his amendment during the markup in the Rules Committee was not offered by either side to be voted on.

Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. BOEHLERT), chairman of the Committee on Science.

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

Mr. BOEHLERT. Mr. Speaker, to my distinguished colleague from Utah for whom I have great respect, I point out that the infield for the Cleveland Indians has improved significantly since his reference. In fact, at shortstop they have a very able player, and they are hot in the middle of a pennant race. That assurance to the gentleman is very important, as is this assurance: both bills offer landowners technical assistance, but it is only the bipartisan substitute that allows the Secretary to give priority to smaller landowners who cannot afford expensive consultants.

Having said that, I rise in strong support of the rule and in strong opposition to the base bill which we hope with a substitute, the bipartisan substitute, to improve substantially and make it a product worthy of the support of the entire House.

But, frankly, we should not be having this debate today. The current version of the bill was not available until Monday afternoon. Everyone concerned with endangered species both inside and outside of government has been scrambling to understand what is H.R. 3824. The Congressional Research Service, a bunch of outside groups that we look to for some advice and counseling, they are scrambling. There has not been enough time for Members to fully digest the bill or work out any differences. I do not think that it should go forward in this manner. There is no reason for this rush except to limit discussion and maybe confuse us as we try to understand the full implications.

The other body is not exactly about to rush to judgment with a measure on the floor. We should not be dealing with the most fundamental rewrite of an environmental statute in 15 years in this manner. There are so many areas of agreement that we have, let us find common ground. I urge opposition to the base bill and strong support for the bipartisan substitute amendment.

Mr. McGOVERN. Mr. Speaker, just for the record, I want to make it clear that the gentleman from Oregon did offer his amendment before the Committee on Rules. It was amendment No. 5 last night. Again, we believe his amendment should have been made in order.

Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, this bill represents a new low. Wasteful drilling in the Arctic and dismantling the Clean Air Act are bad enough, but now the Republican majority wants to weaken the Endangered Species Act, weaken it by handing out subsidies to oil and gas companies and land speculators for not killing endangered species, meaning taxpayers will be giving money to these land developers for simply following the law or for taking a risk by making a big investment in land so they can sell it at a higher price.

What next? Will taxpayers be asked to foot the bill to pay companies to follow other laws of the land?

Mr. Speaker, I know we can do better. Protecting our endangered species is never easy, but if we do not do it right, if we do not depend on sound science, if instead we yield to greed and politics, there is no second chance. I urge my colleagues to vote against the bill and protect the environment for our children and their children and vote for the bipartisan substitute.

Mr. HASTINGS of Washington. Mr. Speaker, for clarification, I acknowledge that the gentleman from Oregon sent his amendment to the Committee on Rules. My point was during the markup of the rule, there was no attempt on the other side to amend the rule to make his amendment in order.

Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. GILCHREST), a member of the Committee on Resources.

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

Mr. Speaker, I am in strong support of this rule. I also want to compliment the chairman of the Committee on Resources. He has been in Congress for seven terms. He has worked very hard on the things that he believes in. He has been relentlessly patient to deal with a number of issues that have affected his district and those in the western areas of the United States, and he has presented to us today a bill that will reform, refine, and reauthorize the Endangered Species Act.

Now, I do not agree with everything in the chairman's bill or his approach, but I want to state here this morning that I respect his courage and his relentless patience to take years to bring something to the floor that he believes in.

The substitute which I support, and I hope my colleagues in this body will support, is not a whole lot different than the base bill. We went through the base bill hour after hour after hour, members and staff; and we changed a few words here and there that we feel will present the approach to protecting endangered species in the appropriate way. Most people who are concerned about the Endangered Species Act either are concerned because, like the

chairman here from the Committee on Rules stated this morning, if you see a dam and it creates deep water and you can get your barges down with your grain, you appreciate the fact that the dam is there. So you have some concern about that.

Or if you are downstream and you want more coho salmon and you believe the dam is degrading the habitat for coho salmon or other species of salmon, you are less likely to appreciate the dam; but both sides look at the Endangered Species Act as either reducing their economic viability or reducing species viability. I think we need to do a number of things that we have done in the substitute. We have taken the words out of the base bill. We create a scientifically acceptable procedure, look on page 2 of the substitute, methods, practices and procedures that are acceptable science.

We have made a requirement for making a determination for what species are listed. Look at page 4 of the substitute, five specific criteria before you can list that species. We are reviewing all species every 5 years to see if the change of status is there, page 5. We repeal the critical habitat requirement in the base bill and replace it with a slightly different recovery plan.

The recovery plan has a number of significant and important elements: a time frame for that recovery plan; objective measurable criteria; a description of where the site should be, and the emphasis is on Federal land and not private land; and an estimate of the cost and time it will take to recover that species. Look on page 20.

There are a number of changes that we have made here to the gentleman from California (Mr. POMBO) which I think improves on the bill. Support the substitute.

Mr. MCGOVERN. Mr. Speaker, I yield 3 minutes to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Speaker, I rise in strong opposition to both the rule and the bill. No matter how the proponents of the bill classify putting soft words and talking about it being reasonable or a compromise, it does not make it so. This is less about reform of the ESA and protecting species, and more about making it easier for the exploitation of the environment.

We have been in a state of stalemate for a number of years because the goal has not been reasonable refinement. There are things we could do right now to make the Endangered Species Act more efficient, more effective, for instance, adequately funding the enforcement and conservation mechanisms. But the goal was not modest reform and improvement; it was a radical adjustment.

The batting average analogy of my friend from Utah simply misses the point. It is not about just the species that have been restored. It is the protection that has been extended across America to make it possible that we are not losing environmental ground, and given the environmental circumstances, that is no easy task.

I have literally watched it work in my own backyard. I have an urban creek that flows 26 miles through the heart of my congressional district. The salmon listing under the Endangered Species Act prompted action by four local cities and two counties. We were able to come forward with an innovative streamlining agreement to meet the standards necessary to comply with the Endangered Species Act and move quickly through the permitting process. We have been able to make progress. I have seen it work when people are committed to doing so.

There are many troubling aspects of this legislation. Putting in the hands, we have seen in this administration, of political appointees really perverting the decisionmaking in the name of science, these are not people that I think we ought to turn this over to willy-nilly.

But the most troubling part of the legislation is found in the new entitlement program contained in section 14. It goes far beyond paying people to obey the law, far beyond compensating for loss of customary use. It actually would create a perverse incentive for developers to propose the most environmentally destructive projects possible in order to get higher payment from the government. If you think we have litigation under the Endangered Species Act now, wait until you see people coming forward right and left with bizarre proposals for development seeking compensation for things that were never customary uses.

It is not only an unfunded mandate. It is providing a form of environmental blackmail and promotes endless legal battles. I urge my colleagues to reject the rule and this radical rollback of the Endangered Species Act.

Mr. HASTINGS of Washington. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. HERGER).

Mr. HERGER. Mr. Speaker, I rise today in support of the rule and in strong support of the underlying bill. The Endangered Species Act is a law with good intentions, but it has spun wildly out of control with tragic consequences for average Americans.

The northern California district I represent has been ground zero for some of the worst examples of the human impacts of this law gone awry. In 2001, a community of family farmers in the Klamath Basin of northern California and southern Oregon had their entire water supply shut off to prevent a perceived threat to two species of listed fish.

□ 1100

Families who for generations had worked the soil to produce food for our Nation were literally left high and dry. To add insult to injury, it was later determined that that decision was not scientifically justified.

Several years ago a levee protecting one of the communities I represent had deteriorated, and the Army Corps of Engineers predicted that in the event of high water, there would be a significant threat to human life. For nearly 7 years, local officials tried to repair that levee, Mr. Speaker, but those repairs were stymied because of the Endangered Species Act. Those delays had tragic consequences. The levee did break, just as the Corps predicted. Tragically, three people drowned.

Mr. Speaker, the impact of this inflexible law have been real and devastating. The reforms proposed by this common sense legislation are long overdue.

I commend the gentleman from California (Mr. POMBO) on his good work and urge my colleagues to support it.

Mr. MCGOVERN. Mr. Speaker, I yield 3 minutes to the gentleman from Washington (Mr. INSLEE).

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

Mr. INSLEE. Mr. Speaker, I would like to address my comments to the Members who do have serious concerns about the Endangered Species Act who have had frustrations from their citizens about its application, but still believe that we ought to have a workable Act, and I want to suggest that voting for this bipartisan substitute and ''no'' on the Pombo bill will really satisfy their needs for five reasons.

Reason number one, the substitute bill will make a significant change to reduce the amount of frustration that landowners feel by moving the listing process of habitat from the time of listing to a time of the development of the recovery plan. And the reason this will alleviate much frustration by landowners is it will allow these services to make a more acute and scientifically sound judgment where this land needs to be listed for habitat and will relieve significant frustration of landowners.

Second, the substitute will make sure that we try to use public land first when we try to protect habitat to take care of these species.

Third, and importantly, it will have a conservation grant program to allow the use of federal funds to help private landowners who will agree to use their lands to help in the preservation of these species.

These are three very significant changes to the Environmental Protection Act which will help property owners avoid some of the frustration that now exist while still moving forward with the purposes of this Act.

But we then need to vote ''no'' on the underlying bill for these two reasons: First, the underlying bill is a massive entitlement program that could be subject to massive fraud because the language is so loose and so speculative, we would be expecting the American taxpayers to shell out literally millions of dollars on highly speculative developments. When a developer comes in there, buys up land that is used for a wheat field and says he wants to put in a strip club or a casino, American taxpayers, under the underlying bill,

would now have to pay entitlement funds where there is no money in this bill appropriated to do it, or even especially authorized for these highly speculative enterprises. Why should the taxpayers have to pay for this flim-flam type of speculation?

And, by the way, nowhere in American law is any taxpayer required in any jurisdiction in this country to do that right now. This is a radical change which exposes the taxpayers to millions of dollars of loss that is not required by the U.S. Constitution and makes no common sense.

And second and lastly, very importantly, the underlying bill provides no enforceable protection for the habitat of these species. Sure, it says that the agencies have to draw these maps, but what is a map if they do not have to follow the map? Five reasons. Members can vote for this with honor, go home and tell their constituents this they have relieved their frustration and protected these species and protected the taxpayers. Respect for the taxpayers and respect for God's creatures at the same time.

Mr. HASTINGS of Washington. Mr. Speaker, I yield 5 minutes to the gentleman from Idaho (Mr. OTTER).

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

Mr. OTTER. Mr. Speaker, I would first like to congratulate the gentleman from California for the great work he has done in getting the Endangered Species Act reform to the floor. This is a very controversial issue, and he and the committee should be commended for working to address some of the real problems in the current law.

There are a couple of provisions for which I have been a strong proponent, and I am pleased that the chairman has agreed to include them in the manager's amendment.

My first amendment is a commonsense one aimed at empowering electricity consumers with the ''right to know'' what they are paying for. This amendment simply seeks to provide ''sunshine'' and transparency to the way our Federal Government does business.

Specifically, the provision requires that each of the Power Marketing Administrations, the Bonneville Power Administration, Western Area Power Administration, Southwestern Power Administration, and the Southeastern Power Administration, to include costs related to the Endangered Species Act in their customers' monthly electricity billings.

In the Pacific Northwest alone, the Bonneville Power Administration accounts for 45 percent of the region's electricity sales and 75 percent of the transmission lines.

Bonneville Power's rates have risen 46 percent since 2001, due in main part to the Endangered Species Act's impact on the Columbia/Snake hydropower system. The Agency spends an average of $500 million per year on ESA compliance. To whom are these costs passed on to? Of course, the electricity ratepayers.

The point of all this, Mr. Speaker, is that few Pacific Northwest consumers have a notion of the amount of money of their monthly bills that goes directly towards the Endangered Species Act compliance, nor do they or other end-user consumers of the other Power Marketing Administrations. It is estimated that as much as one third of the power bill from the BPA is devoted to salmon recovery, but no one knows for sure.

I get a bill once a month from the power company that includes all sorts of information about tips on conserving energy and warnings on how to keep me from electrocuting myself, but nowhere does it detail what I am paying for. How much is for generating power and how much is for transmission costs and how much is for the ESA?

I would like to thank the chairman for including language in the bill that consolidates jurisdiction of the Endangered Species Act management of species under one agency. During my first term in Congress, I introduced legislation that did just that, and I am pleased to see the concept is finally moving forward.

NOAA Fisheries originally was part of the Department of Interior until 1970, when NOAA was created under the Department of Commerce to address federal management of commercial and tribal fisheries. This was prior to the enactment of the Endangered Species Act of 1973. Now the Agency's mission of managing commercial and tribal harvests of salmon and recovering endangered species are in conflict.

NOAA Fisheries and the Fish and Wildlife Service have differing processes for handling and permitting thousands of activities that must undergo federal conciliation under the ESA and competing science on how best to manage the species. It would be better for the species and for cost-effective government management to have one process that works.

Consolidation of agencies managing the ESA will eliminate duplication and allow scarce Federal resources to be focused on achieving the true objective of the Endangered Species Act, the recovery of species through science-based management.

I encourage Members to support the rule, the manger's amendment, and the bill and oppose the Miller-Boehlert substitute that lacks all the property rights protection that the Committee on Resources has worked so hard to restore. I thank the chairman for his leadership on this issue, and I look forward to the passage of this bill.

Mr. MCGOVERN. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. CARDOZA).

Mr. CARDOZA. Mr. Speaker, I would like to thank the gentleman from Massachusetts for yielding me this time.

I am put in the unenviable position today, as a lifelong Democrat, to have to stand and oppose the Democratic position on this rule.

As I have sat here and listened to the debate on the rule, I simply do not feel that some of the statements by my colleagues are accurately reflecting what is in the bill as it currently is written. It is simply untrue that this bill allows skyscrapers to be built on the prairie to endanger species. We are not going to be using taxpayer dollars to promote strip clubs or casinos, as one of my colleagues said. It is simply not true.

The reality is that under the Endangered Species Act, most of the provisions of the Act, as it currently stands, will be in place. What we are talking about is compensating farmers if their land is taken away, and if they want to continue to farm and under the Act we have to protect a species, the farmer will be compensated for the right that has been taken away. That is a longstanding right of this country, to be compensated when government takes one's property.

We had a vote recently on this floor of over 400 Members who said exactly that in one of the eminent domain cases that was recently challenged, when the Supreme Court took someone's property.

We have a longstanding tradition here of protecting personal property rights but not when it comes to the Endangered Species Act. In my State, the Fish and Wildlife Service said that 4.7 million acres of California had to be set-aside for the red-legged frog, 1.7 million acres for vernal pools and fairy shrimp. This is not a new entitlement program. This is compensating landowners when their property is taken away.

Those in support of the substitute have been distributing a handout, and in the substitute it says virtually everything that the gentleman from California (Mr. POMBO) and I and others have written and coordinated on. In fact, about 90 percent of this bill was written by Democratic staff. I will say that, frankly, that does not happen in this House very often where there is a bipartisan attempt to come to an agreement.

There is 10 percent disagreement on this bill, and virtually what that 10 percent disagreement is, is whether or not people are going to be compensated when their land is taken and the fact that there has been a new focus, according to some of my colleagues, of putting the onus of this bill mainly on to public lands. Well, the reality is most of the endangered species, in fact, 90 percent of the endangered species, are on private lands. So that provision that is in the substitute simply will not work.

I urge my colleagues to reject the challenge to the rule, to support the rule, and to support the underlying bill.

Mr. HASTINGS of Washington. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DREIER), distinguished chairman of the Committee on Rules.

Mr. DREIER. Mr. Speaker, I thank my friend for yielding me this time, and I thank him for his very important work on this vital piece of legislation.

I rise to support the rule and the underlying legislation and to begin by praising the gentleman from California (Mr. POMBO), the very distinguished chairman, for all of the effort that he has put in to assembling a bipartisan compromise on this.

I will say I am somewhat disturbed with what I just heard from the gentleman from California (Mr. CARDOZA) that 90 percent of this legislation was, in fact, crafted by Democratic staff. But I will say that if it embraces the core Republican goals that the gentleman from California (Mr. POMBO) is pursuing, I still will be supportive of it. But I think that that is demonstration of the fact that we are working in a bipartisan way and the gentleman from California (Mr. POMBO) has demonstrated his willingness to do just that.

When I think about the long struggle which the gentleman from California (Mr. POMBO) has been involved in for a decade to try to bring about reform of the Endangered Species Act, I think back to one of the challenges that we have in Southern California, and the gentleman from California (Mr. CALVERT), who has worked long and hard on this, represents part of Riverside County, and I recounted up in the Committee on Rules yesterday the fact that dealing with the Stephens' kangaroo rat, an endangered species, we had conflicting directives that came from government.

□ 1115

The fire department in Riverside County said you should clear the brush away from your homes to ensure that you do not face the threat of fire. The County of Riverside said to comply with the Endangered Species Act we would be jeopardizing the Stephens' kangaroo rat's life. And, by the way, the Stephens' kangaroo rat had been found in great numbers later in Texas, but we would jeopardize that if you did clear the brush away from your home.

What happened? To their benefit, many people who followed the directive of the fire department, their homes were saved; and, of course, those who did not tragically lost their homes because of fire.

We right now in Southern California are dealing with tremendous fire problems in that area; and, frankly, I do believe that the kind of reform that is going to be assembled in a bipartisan way on the Endangered Species Act will go a long way toward preserving property and to make sure that we diminish the kind of threat that does exist out there.

Recovery efforts, coupled with compensation for private property, that is a big part of what this effort is about. I congratulate, again, the gentleman from California (Mr. POMBO); and I know the gentleman from California (Mr. CARDOZA) has been working very hard on this, obviously, because he has had a lot of impact, as he just outlined.

Mr. Speaker, I think that we can come with, I hope, a very, very strong vote from both Democrats and Republicans for both the rule and the underlying legislation. I thank again my friend for his efforts on this.

Mr. MCGOVERN. Mr. Speaker, I yield 3 minutes to the gentleman from New Mexico (Mr. UDALL).

(Mr. UDALL of New Mexico asked and was given permission to revise and extend his remarks.)

Mr. UDALL of New Mexico. Mr. Speaker, I thank the gentleman from Massachusetts for yielding me time, and I also thank him for his excellent presentation on the rule.

Mr. Speaker, I rise in opposition to the rule. Once again the folks running this place have made a mockery of the legislative process. This bill was put on a rocket docket so that no one knows what is in it. Look at how we have proceeded here.

First of all, last week, just a short 10 days ago, we first saw the bill. Some of the members of the committee did not even see it until Tuesday. Unveiled on Monday, and did not see it until Tuesday, Democrats and Republicans not knowing what is in the bill. On Wednesday, we had hearings, 2 short days later. We only had four witnesses and several hours of hearings; and the crucial witness in this case, the administration witness, would not even take a position on the bill.

Here is the agency that for 30 years has administered the bill, with the scientists, with the expertise, and the administration witness walks in and says, We do not know. We do not have an idea. Just go ahead.

We could have taken the time, I say to the gentleman from California (Chairman POMBO), to travel the country, to reach out and find out what was working with this law and what was not working and crafted a bipartisan bill. But that is not what we have here today.

After we had that hearing with four witnesses, the very next day, rather than waiting a day or two and seeing how the hearing went and what the reaction was, we marked up the bill and reported it out of committee. So at the end of the week we thought we had one bill. Well, last night in the Committee on Rules, there were major changes to the bill again in the manager's amendment.

So what the gentleman from California just said about the Democrats writing the bill, sure, we contributed some of the language, but the manager's amendment makes significant changes in this bill; and the things that we are really fighting over, we may have contributed 90 percent, but the things we are fighting over in the 10 percent are huge things at stake: this huge giveaway to big developers, major changes in the environmental laws. Those were written by others in the bill.

So this bill is an abomination. It has made mockery of the legislative process. I urge my colleagues to defeat the rule and start once again, start once again with a process that respects this institution.

Mr. HASTINGS of Washington. Mr. Speaker, I am pleased to yield 5 minutes to the gentleman from California (Mr. POMBO), the chairman of the Committee on Resources, the author of this bill, and somebody who has worked extremely hard on this for at least 12 years.

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

First of all, I want to thank the major coauthor of the bill, the gentleman from California (Mr. CARDOZA), for working with me in a bipartisan way over the last several months to craft a bipartisan solution to the problems that we have got with the Endangered Species Act.

I also would like to thank the gentleman from West Virginia (Mr. RAHALL), the ranking member on the committee, for all of the work that he put in, and that his staff put in, particularly Jim Zoia, who did yeoman's work in putting this bill together. Lori Sonken, Tod Willens, and Rob Gordon worked tirelessly to try to compromise and work out a bill that we could all be proud of, along with Hank Savage from the Office of Legislative Counsel.

We have come a long way, a long way, from where we were. This debate over endangered species has been raging across this country for years, and our effort was to throw away everything that we had tried to do in the past and put it aside and try to start again and say how do we sit down as members of the Committee on Resources and come to a solution that we can all agree with.

That is what we attempted to do. We knew that the Endangered Species Act had problems. We knew that there were things that had to be fixed, that just were not working in current law.

It is kind of ironic this morning to hear people come to the floor and talk about how radical the bill is and how quickly we moved on it. We have held over 50 hearings on the Endangered Species Act. We traveled around the country, going to places where people actually have to live with the implementation of the law and listened to them and what they told us. And we came back and we started to craft a bill.

I did not push through the bill that I wanted. I did not allow the gentleman from California (Mr. CARDOZA) or the gentleman from West Virginia (Mr. RAHALL) to push through the bill they wanted. We sat down and worked it out.

It is amazing to hear all of this stuff that is supposedly in the bill. From what I see, all of these folks are going to vote ''no'' on the bill and they are going to vote ''no'' on the substitute, because the substitute claims to be the same thing. It claims to deal with all

the same issues, and in fact they use the exact same language. ''Critical habitat.'' Both bills use identical language. ''Provide certainty for landowners.'' Both bills use identical language. ''Provide incentive for landowners.'' Both bills use identical language. And on and on and on.

What is the major difference? What is the major difference? In our bill, we protect the small property owners. Yes, we do. And we should. If the Federal Government steps in and takes somebody's land for a highway, we all pay for it. I do not see people running down here screaming it is an entitlement. I do not see people running down here screaming that it is a budget buster if we pay people if we take that property for a highway.

If we take it for a wildlife refuge to protect a wildlife refuge, we pay them for it, and nobody is down here screaming about it saying it is an entitlement. Nobody is down here screaming, saying it is unfair to pay somebody if you take their property for a wildlife refuge.

If you take their land for a national park, we pay them for it, and nobody is saying that is an entitlement. Nobody is saying that we are busting the budget.

But when we get to endangered species, we tell a farmer, you cannot farm part of your land, 10 percent, 20 percent, 50 percent, whatever it is, you cannot farm that part of your land, now, all of a sudden, oh, we cannot do that.

Well, we have got the responsibility to do it. If you take away somebody's private property, if you take away the use of their private property, you have to pay them for it. There is nothing wrong with that. Why you guys are so wed to the old debates and the old rhetoric, I have no idea.

We sat down as a committee and we worked out this bill. Half the Democrats that voted in the committee voted for it. It was a bill that was worked out. It is not everything I wanted; it is not everything the gentleman from California (Mr. CARDOZA) wanted. It was a compromise, a reasonable way to protect endangered species, to protect the habitat in which they need to recover; and if that does involve private property, yes, we pay them for it. And, dang it, we should.

Mr. MCGOVERN. Mr. Speaker, I yield 2 minutes to the gentleman from New Mexico (Mr. UDALL).

(Mr. UDALL of New Mexico asked and was given permission to revise and extend his remarks.)

Mr. UDALL of New Mexico. Mr. Speaker, the gentleman from California tries to make the substitute and the bill that is on the floor sound the same; but there are major differences, and we should recognize that. First of all, let us talk about some of those differences.

The bill before us is a huge giveaway to big developers. It creates a program where the burden is on the government to disprove. It basically does not put a dollar amount in the bill, because they are afraid of the dollar amount because it is an entitlement program for landowners that want to gut the Endangered Species Act. But the estimates are 10, 20, 30, 40 billion. Who knows how much this is going to cost.

Our bill, the substitute, does not do that. It is modest. It says we should work with private landowners. It sets up a program so that the government goes out and works with those landowners to accomplish the goals of the Endangered Species Act.

The majority bill, and this is another major difference, changes the Endangered Species Act in a radical, radical way, especially with the adoption of the manager's amendment. The substitute reforms the Endangered Species Act, while protecting the core provisions of that magnificent environmental law that has been on the books for 30 years.

At the end of this, we have not respected this institution by the way we brought the bill before the floor, the way we have worked in committee to put it on a rocket docket and speed it through, speed it through this process. We need to slow down. We need to take a look at this and work in a bipartisan way.

I urge my colleagues to defeat the rule.

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

Mr. Speaker, I would again urge my colleagues to, first of all, vote ''no'' on the rule, and I would also urge them to vote ''no'' on the underlying bill. I appreciate the work that the gentleman from California (Chairman POMBO) and others have put into this bill, but the bottom line is that the underlying bill eliminates habitat protections; it abandons the commitment to recovery of endangered species; it repeals protection against hazardous pesticides; it politicizes scientific decision-making; it eliminates the vital check-and-balance of consultation; it requires the Fish and Wildlife Service to allow unfettered habitat destruction; it would require taxpayers to pay developers, oil and gas companies and other industries, for complying with the law; and it is an entitlement.

I know the chairman has kind of objected to that characterization, but that is not my characterization. It is what CBO has concluded. It is what our colleague from Illinois (Mr. KIRK) who testified yesterday on behalf of the Republican Study Committee and the Republican Tuesday Group said last night in the Committee on Rules, that this bill creates an expensive new Federal entitlement program.

Mr. Speaker, the Endangered Species Act has done a great deal to protect endangered species. Everybody agrees that there needs to be adjustments. Everybody agrees that we can come together and make those necessary adjustments. But what we object to is that the underlying bill guts the Endangered Species Act. It is a bad bill; it is bad policy. I would urge my colleagues to vote ''no'' on the rule and the bill.

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

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

Mr. Speaker, there has been a lot of rhetoric thus far on the rule, and I suspect there will be a lot of rhetoric when we debate the bill; but there is one underlying thread here that needs to be mentioned. It was mentioned by the gentleman from Utah (Mr. BISHOP), the gentleman from California (Mr. CARDOZA), and the gentleman from Maryland (Mr. GILCHREST).

□ 1130

That is that the Endangered Species Act needs to be updated.

I came here 10 years ago, and this is one of the big issues that was very important to my constituency when I first ran. There was talk then about amending the Endangered Species Act, but there was no agreement at all. We did get a bill out of committee. Unfortunately, it did not go any further.

But now we hear today that there is 90 percent agreement on the need to change the Endangered Species Act, but there is violent 10 percent disagreement on what those means should be. I contend that is huge, huge movement from where we have gone in 10 years. I do not know what the reasons are, but I expect the reasons are the inflammation of the existing Act.

So with that, Mr. Speaker, I urge support of the rule.

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 SPEAKER pro tempore (Mr. TERRY). The question is on the resolution.

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

Mr. MCGOVERN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

PROVIDING FOR CONSIDERATION OF H.J. RES. 68, CONTINUING APPROPRIATIONS, FISCAL YEAR 2006

Mr. PUTNAM. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 469 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 469

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the joint resolution (H.J. Res. 68) making continuing appropriations for the

fiscal year 2006, and for other purposes. The joint resolution shall be considered as read. The previous question shall be considered as ordered on the joint resolution to final passage without intervening motion except: (1) one hour of debate equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations; and (2) one motion to recommit.

SEC. 2. It shall be in order at any time on the legislative day of Thursday, October 6, 2005, for the Speaker to entertain motions that the House suspend the rules. The Speaker or his designee shall consult with the Minority Leader or her designee on the designation of any matter for consideration pursuant to this resolution.

SEC. 3. A motion to proceed pursuant to section 2908 of the Defense Base Closure and Realignment Act of 1990 shall be in order only if offered by the Majority Leader or his designee.

The SPEAKER pro tempore. The gentleman from Florida (Mr. PUTNAM) is recognized for 1 hour.

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

Mr. PUTNAM. Mr. Speaker, House Resolution 469 is a rule that provides for consideration of House Joint Resolution 68, making continuing appropriations for the fiscal year 2006. This rule provides for 1 hour of debate in the House, equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. The rule waives all points of order against consideration of the joint resolution. The rule provides one motion to recommit the joint resolution.

Additionally, the resolution provides that suspensions will be in order at any time on the legislative day of Thursday, October 6, 2005, and the Speaker or his designee shall consult the Minority Leader or her designee on any suspension considered under the rule.

Lastly, the rule provides that a motion to proceed pursuant to section 2908 of the Defense Base Closure and Realignment Act of 1990 shall be in order only if offered by the majority leader or his designee.

Mr. Speaker, I want to commend the gentleman from California (Chairman LEWIS) and the entire House Committee on Appropriations on both sides of the aisle for sticking to the timetable they laid out at the start of this legislative session. In an impressive display of bipartisanship and just sheer hard work, the House passed all 11 appropriations bills prior to the July 4 District Work Period. Since July, the Senate has returned to us only the interior and legislative branch appropriations bills, which have each been signed into law by the President. Additionally, the Senate has passed six of its remaining 10 appropriations bills. These six are awaiting closure in conference. We are now just anticipating action from the Senate on those last four appropriations bills so we can move forward, finish the appropriations process, and avoid a cumbersome omnibus funding bill.

Unfortunately, the appropriations process within the two bodies has not been completed prior to the start of the new fiscal year which, of course, begins this October 1. We must institute a continuing resolution in order to allow the government to function through November 18, 2005, while we complete consideration of the remaining appropriations bills, waiting on the Senate to complete their final actions, and for the conference committees to do their work. This rule allows consideration of the imperative funding measure.

I am most impressed with the work of the Committee on Appropriations on this continuing resolution. Throughout the appropriations process, the committee has shown its commitment to the budget resolution and to fiscal responsibility. The committee has funded programs and activities at the lowest level of the House-passed level, the Senate-passed level, or the fiscal year 2005 current rate. For agencies for which the Senate has not passed a bill by the start of a new fiscal year, the funding rate is at the lower of the House-passed level, or the fiscal year 2005 current rate.

The legislation includes language prohibiting agencies from initiating or resuming programs or procurements not funded in the fiscal year 2005, and prohibits agencies from awarding new grants and certain other forms of assistance during the period of the CR, which, of course, is through November 18 of this year.

I again congratulate the gentleman from California (Chairman LEWIS) and the gentleman from Wisconsin (Ranking Member OBEY) and the entire committee for their hard work this year. I urge Members to support this rule and the underlying CR so that we can finish the appropriations process, move down the road to responsible funding for the needs of this Nation, and avoid a cumbersome omnibus funding bill.

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

Ms. MATSUI. Mr. Speaker, I thank the gentleman from Florida for yielding me this time, and I yield myself such time as I may consume.

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

Ms. MATSUI. Mr. Speaker, this rule will allow us to debate H.J. Res. 68, a continuing resolution that will fund the Federal Government past September 30. While this is an essential procedural measure, it also represents an opportunity. Between now and November 18, when the resolution expires, Congress has a responsibility to step back and consider its priorities. The facts on the ground have changed, and our agenda here in the House must change accordingly.

I am confident that we will do right by those affected by the hurricanes, but we still need to ask ourselves where our financial and legislative duties are in response to Katrina construction, continued funding for Iraq and Afghanistan, and increasing fiscal deficit. Are we looking at the big picture? Are our priorities in line with our financial obligations? We know that because of Katrina, the victims, those displaced from their homes, are more likely to rely on medicaid. With that known expense, can we honestly reduce the funding for this responsibility and still extend tax cuts?

Mr. Speaker, we need to take care of our fellow citizens, but what we do now should not mean we pass on an unsustainable debt to future generations, especially when we know there is a way we can offset these costs. For the costs of this year's installments of the tax cuts enacted in 2001 and 2003, $225 billion this year alone, we could pay for the gulf States' recovery from Katrina. We know that we need some of these cuts, such as AMT relief, but let us at least be reasonable and put them on the table.

We must have an honest discussion about our fiscal situation. I urge my colleagues to step back and take a hard look at how we will move forward, not just this fall, but next year and the decades after that.

Mr. Speaker, I am sure that all of my colleagues have heard me talk about my granddaughter Anna, and we all have someone like her, someone we see as our future, someone that means the world to us. I believe that she will grow up to a better future. But, to do right by them, we must all step up to the plate, not as Members of one party or another, but as leaders and statesmen willing to accept the reality of our fiscal situation and make the difficult decisions.

Our priorities in the coming months should not waver from the ultimate goal.

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

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

I thank the gentlewoman for her comments. I certainly agree that this debate about the budget and the appropriations process is always a debate about our future, and it is a debate about priorities. Clearly, we have had a shift in priorities since that budget resolution passed. As a State that was hit by four hurricanes last year and had the beginnings of Katrina come across our State this year, our hearts go out to our brothers and sisters on the gulf coast, and we recognize that this government has a commitment to help lift up those citizens on the gulf coast and, where appropriate, we have a Federal responsibility in the rebuilding and reconstruction process in Louisiana and Mississippi and Alabama, and a lot of other places.

So I think that that reinforces the need for us to move ahead with this

continuing resolution and allow our appropriations process to work, instead of positioning ourselves to a situation where we end up with an omnibus bill that I do not think either one of us thinks is the appropriate way to go.

There is an opportunity here for us to reprioritize, using regular order, using the strength and talent that sits on our committees, and bringing about a measured approach to doing that. It is going to require offsets. The numbers that are coming out of there fluctuate wildly, and it is important that we have a handle on what those needs truly are. It is important that we recognize that had we not taken some of the steps that we have taken in the past, we would not have eliminated $100 billion off of the deficit in the last year. We would not have been in a position where revenues to the government would have actually been higher than they were as a result of the lower taxes and the growth in the economy that has come about as a result of that.

But that is a debate for another day. This is a debate about the continuing resolution and the need for us to make sure that the government does not shut down.

The House has done its work. I think we can all be very proud of our appropriators finishing their schedule before July 4, and now we are in a position, unfortunately, of being in a bit of a holding pattern, waiting on the Senate and our conference committees to do their work. But it is important for us to pass this rule and allow the CR to move ahead.

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

Ms. MATSUI. Mr. Speaker, I yield 3 minutes to the gentleman from Colorado (Mr. UDALL).

(Mr. UDALL of Colorado asked and was given permission to revise and extend his remarks.)

Mr. UDALL of Colorado. Mr. Speaker, I thank the gentlewoman from California for yielding me this time. Mr. Speaker, I cannot support a closed rule, although I do understand the need for prompt action on the continuing resolution. As my good friend from Florida has pointed out, the Senate's slowness in acting on appropriations bills means that the continuing resolution that we are discussing here today is necessary.

However, as we prepare to provide the funds to keep the government running, I think we need to consider the larger budgetary picture. It is essential for us to respond to the devastation brought by hurricanes Katrina and Rita but, as we do, we should consider and respond to the fiscal and economic risks we have been running.

I think there is an urgent need for both the administration and the Congress to face hard reality and not continue with budget policies based on laws that defy the laws of fiscal gravity. For too long, there has been a dearth of both presidential leadership and accountability in this area.

That is why later today, along with the gentleman from Ohio (Mr. CHABOT), the gentleman from Arizona (Mr. FLAKE), and perhaps the gentleman from Florida (Mr. PUTNAM), I will introduce a bill that I think could promote both. The bill is called the Stimulating Leadership in Cutting Expenditures Act, or the SLICE Act for short. It would do two things: First, it would authorize the President to identify specific items in Federal spending that he thinks should be cut; and second, require Congress to vote on each of those items.

The bill would apply both to appropriations and to spending items in the recently signed transportation bill. It would set deadlines for the President to propose cuts and for Congress to act on them.

Under the bill, Congress would have to vote on each proposed cut. We could not ignore those proposals, as can be done under current law, and if a majority approved the cut, it would take effect.

The President has said we should pay for responding to Katrina and Rita through spending cuts alone, but the President's own party and the majority in this House are divided on what to cut.

We may disagree on budget and tax priorities, Mr. Speaker, but one thing is certain. It is past time for a serious debate about specific proposals for ways to dig ourselves out of the deficit hole. This bill is intended to jump-start that debate.

I hope all of our colleagues will join us in this crucial effort to restore fiscal sanity to our Nation's Capital.

Mr. Speaker, Hurricanes Katrina and Rita not only brought death and destruction across a wide swath of the Gulf coast. They also delivered a blow to the Federal budget and sounded a wakeup call about the fiscal and economic risks we have been running.

A full response to these natural disasters must include more than emergency repairs, humanitarian relief, and community rebuilding. We also need to consider serious questions about the limits of government, the wisdom of wartime tax cuts, and our national capacity to look beyond short-term political priorities.

If anything good can come from these terrible storms, maybe it will be recognition by both the Bush administration and Congress that now we need to face hard reality and not continue with budget policies based on defying the laws of fiscal gravity. It's about time.

Even if Katrina and Rita had taken less destructive paths and the New Orleans levees had held, the problems would have been serious because the Federal budget was already on a dangerous course marked by tidal waves of red ink and towering piles of debt. Since 2001, the budget surplus that President Clinton and a Republican Congress bequeathed President Bush has been erased and our country is now in debt to the tune of $8 trillion, or $25,000 for every American man, woman and child.

This was the result of several factors, of course, but the size and scope of the Bush tax cuts must bear a large part of the blame.

Several parts of those tax cuts—for example, eliminating the marriage penalty, fixing the 10 percent bracket and extending child care tax credits—were good. They gave a reasonable boost for the economy and increased the fairness of the tax laws. But having campaigned on giving back most of the budget surplus in tax cuts, President Bush insisted on much more, and Congress went along.

Many of us warned against reducing the surplus so recklessly, and urged the administration and Congress to remember the need to be ready for future emergencies. Our pleas for restraint were ignored. And then came the attacks of 9/11 and with them the need for increased spending on homeland security, a military response in Afghanistan, and a war in Iraq. The budget nosedived from surplus into deep deficit.

Even in the face of national emergency, neither the President nor Congress has seen fit to call on Americans for any sacrifice, and instead of temporarily scaling back tax cuts, the President has insisted on making them permanent even as Federal spending has skyrocketed.

So now we are putting the costs of war and everything else the government does on the national credit card—but the debt is owed not just to ourselves (as in the past), but to China, Japan and India.

Why have we allowed things to get so far out of hand?

Part of the answer is that budget and tax policy in Washington has been so captive to very partisan and extreme ideological voices that it has been hard to find common ground and moderate consensus.

Even in this time of war, extremists in the Republican Party view tax cuts as almost a religious calling, while some in my party reject any spending cuts except in defense. And the Vice President dismisses complaints by saying "deficits don't matter."

So, it not surprising that the appropriations process has not been marked by fiscal discipline. Unless the President or Congressional leaders proclaim a need for restraint, let alone sacrifice, why would Members of Congress not work to meet the transportation and infrastructure needs of their districts and seek funding for other valued purposes?

But all this cannot go on forever. Sooner or later, something has to give. And, if the result is a new sense of responsibility, sooner is better—because there is an urgent need to rethink and revise our budget policies, including both taxes and spending.

It could be that, just as they revealed the problem, Katrina and Rita can provide a catalyst to beginning that overdue job.

The President has said the Federal Government will undertake to help rebuild the communities left devastated by the storms—and has said that spending for other purposes should be reduced to offset the costs.

I have serious doubts about the adequacy of that approach, about the desirability of whatever spending cuts the President may propose, and about the readiness of Congress to seriously consider any cuts at all.

But I am hopeful that maybe at last the time has come for a serious debate about specific proposals for ways to dig ourselves out of the deficit hole.

To help begin such a serious debate, earlier this year I introduced legislation that would give the President authority to require Congress to vote, up or down, on specific appropriations items the President deemed unworthy of funding—a workable and Constitutional

alternative to the line item-veto legislation that the Supreme Court struck down in 1998.

Now, I am introducing an updated version of this bill that focuses directly on the President's suggestion that disaster response costs be offset with spending cuts.

The bill is called the Stimulating Leadership In Cutting Expenditures or, "SLICE" Act.

That name fits because the bill would promote Presidential leadership and Congressional accountability on proposals to reduce other spending in order to offset the costs of responding to the recent natural disasters.

Toward that end, it would authorize the President to identify specific items of Federal spending that he thinks should be cut and would require Congress to vote on each of those items.

The bill would apply not only to regular appropriations, but also to the transportation bill that was passed and signed into law earlier this year.

The bill would establish a two-phase process: the President would have until November 1st to tell Congress which, if any, of the spending in the transportation bill should be cancelled. And he would have until the end of this year to identify any items in fiscal year 2006 appropriations bills we wants to eliminate.

In each case, if the President proposes a cut, Congress would have to vote on it—we could not ignore the proposal, as can be done under current law—and if a majority approved the cut, it would take effect.

Mr. Speaker, as our budget situation has grown worse, there has been a lot of talk about "earmarks," meaning funding allocations initially proposed by Members of Congress rather than by the Administration.

Some people are opposed to all earmarks. I am not one of them. I think Members of Congress know the needs of their communities, and that Congress as a whole can and should exercise its judgment on how tax dollars are to be spent. So, I have sought earmarks for various items that have benefited Colorado and I will continue to do so.

At the same time, I know—everyone knows—that sometimes a large bill includes some earmarked items that might not be approved if they were considered separately, because they would be seen as unnecessary, inappropriate, or excessive.

Dealing with that problem requires leadership and accountability. My bill would promote both.

Presidents are elected to lead, and only they represent the entire Nation. The bill recognizes this by giving the President the leadership role of identifying just which other spending he thinks should be cut in order to offset some of the amounts the Federal Government will be spending in response to recent natural disasters.

And, under the Constitution, it is the Congress that is primarily accountable to the American people for how their tax dollars will be spent. The bill respects and emphasizes that Congressional role by requiring a vote on each spending cut proposed by the President.

I do not know exactly which spending the President might propose to cut, so I do not know whether I would support some, all, or any of those proposals.

But I do know that we should stop wasting time in theoretical debates about whether we should make spending cuts and start debating specific proposals.

My bill is intended to get that debate started now.

For the benefit of our colleagues, here is an outline of the bill:

STIMULATING LEADERSHIP IN CUTTING EXPENDITURES (SLICE) ACT

The purpose of the bill is to facilitate Presidential leadership and Congressional accountability regarding reduction of other spending to offset the costs of responding to recent natural disasters.

The bill would amend the Budget Act to provide as follows:

The President could propose rescission of any budget authority provided in the recently passed transportation bill or an appropriations Act through special messages including draft bills to make those rescissions.

The President would have until November 1, 2005 to propose canceling spending items in the new Transportation Act and until January 1, 2006 to propose rescissions from FY 06 appropriations bills.

The House's majority leader or minority leader would be required to introduce a bill proposed by the President within two legislative days. If neither did so, any Member could then introduce the bill.

The relevant Committee would be required to report the bill within seven days after introduction. The report could be made with or without recommendation regarding its passage. If the Committee did not meet that deadline, it would be discharged and the bill would go to the House floor.

The House would debate and vote on each proposed rescission within 10 legislative days after the bill's introduction. Debate would be limited to no more than four hours and no amendment, motion to recommit, or motion to reconsider would be allowed.

If passed by the House, the bill would go promptly to the Senate, which would have no more than 10 more days to consider and vote on it. Debate in the Senate would be limited to 10 hours and no amendment or motion to recommit would be allowed.

□ 1145

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

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

I applaud the gentleman's bipartisan effort to find ways to pay for these unanticipated expenses that we have come across, and I wish him the best in that effort. I think it is important that we all recognize on both sides of the aisle that offsets are going to be necessary and that we do have to reprioritize.

As the gentleman knows, the President submitted a list through the regular budget process of 150 programs to cut or eliminate earlier this year, and some of them received some attention and others received more attention than others. It is certainly a difficult proposition in this town to eliminate any program, but the President led early this year with that thought in mind and he had mixed success.

Again, recognizing the importance of your bipartisan effort and recognizing the facts that we are going to have to have these offsets, this bill, this rule that we are here to consider essentially keeps the government from shutting down while we have that debate. It appears that there is genuine broad support for the CR and for the rule, and I appreciate that.

Mr. Speaker, I thank the gentlewoman from California (Ms. MATSUI) for her work on the Rules Committee and what is essentially a broad commitment that we have to have this CR through November 18. Frankly, it is not for lack of effort on the House side. Both parties have a lot of reasons to be proud of the efforts of our appropriators and the entire House. We had a Herculean effort this summer to move these bills on schedule, move them out before July 4th, and because of Supreme Court nominations and everything else obviously the Senate has had other issues on their agenda, and we are in a holding pattern on the appropriations. Nobody wants to see the government shut down after Saturday, so it is important that we move this rule, move the underlying CR, and allow the regular order, the talent and skills that exist within this House, to work their magic as we deal with these unanticipated effects from two gulf storms, and we are not even finished with hurricane season yet.

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.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FOLEY). Pursuant to clause 8 of rule XX, proceedings will resume on questions previously postponed.

Votes will be taken in the following order:

adoption of H. Res. 470, by the yeas and nays;

motion to suspend the rules on H. Res. 388, by the yeas and nays;

motion to suspend the rules on H. Con. Res. 245, by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

PROVIDING FOR CONSIDERATION OF H.R. 3824, THREATENED AND ENDANGERED SPECIES RECOVERY ACT OF 2005

The SPEAKER pro tempore. The pending business is the vote on adoption of House Resolution 470 on which the yeas and nays are ordered.

The Clerk read the title of the resolution.

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

The vote was taken by electronic device, and there were—yeas 252, nays 171, not voting 10, as follows:

[Roll No. 502]

YEAS—252

Abercrombie	Baca	Bartlett (MD)
Aderholt	Bachus	Barton (TX)
Akin	Baker	Bass
Alexander	Barrett (SC)	Beauprez

Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Costa
Cramer
Crenshaw
Cubin
Cuellar
Cunningham
Davis (AL)
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Matheson
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Melancon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (WI)
Ryun (KS)
Salazar
Saxton
Schmidt
Schwarz (MI)
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Young (AK)
Young (FL)

NAYS—171

Ackerman
Allen
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Bishop (NY)
Blumenauer
Boucher
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costello
Crowley
Cummings
Davis (CA)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gordon
Green, Al
Green, Gene
Grijalva
Hastings (FL)
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Price (NC)
Rahall
Rangel
Reyes
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (VA)
Serrano
Sherman
Skelton
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wynn

NOT VOTING—10

Andrews
Boswell
Culberson
Davis (FL)
Gerlach
Gutierrez
Harman
Lee
Moore (WI)
Slaughter

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1212

Ms. WASSERMAN SCHULTZ, Messrs. VAN HOLLEN, BAIRD, FATTAH and McINTYRE changed their vote from ''yea'' to ''nay.''

Messrs. CRAMER, BISHOP of Georgia, DAVIS of Alabama and PETERSON of Minnesota changed their vote from ''nay'' to ''yea.''

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated against:

Mr. ANDREWS. Mr. Speaker, I regret that I missed rollcall vote No. 502 today. If I had been present, I would have voted "no."

EXPRESSING SENSE OF HOUSE OF REPRESENTATIVES REGARDING JULY 2005 MEASURES OF EXTREME REPRESSION ON PART OF CUBAN GOVERNMENT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the resolution, H. Res. 388.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arkansas (Mr. BOOZMAN) that the House suspend the rules and agree to the resolution, H. Res. 388, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 393, nays 31, not voting 9, as follows:

[Roll No. 503]

YEAS—393

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
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
Carter
Case
Castle
Chabot
Chandler
Chocola
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Cummings
Cunningham
Davis (AL)
Davis (CA)
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
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
Gutknecht
Hall
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinojosa
Hobson
Hoekstra
Holden
Holt
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
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
McMorris
McNulty
Meehan
Meek (FL)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)

Miller (NC)
Miller, Gary
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
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
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Tierney
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Young (AK)
Young (FL)

NAYS—31

Carson
Clay
Conyers
Davis (IL)
Farr
Grijalva
Hinchey
Honda
Jackson-Lee (TX)
Johnson, E. B.
Jones (OH)
Kucinich
Lewis (GA)
McDermott
McKinney
Meeks (NY)
Miller, George
Pastor
Paul
Payne
Rush
Schakowsky
Serrano
Stark
Thompson (MS)
Towns
Velázquez
Waters
Watson
Woolsey
Wynn

NOT VOTING—9

Boswell
Culberson
Davis (FL)
Gutierrez
Harman
Kaptur
Lee
Obey
Slaughter

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1222

Ms. JACKSON-LEE of Texas, Mr. TOWNS and Ms. SCHAKOWSKY changed their vote from ''yea'' to ''nay.''

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

EXPRESSING SENSE OF CONGRESS THAT UNITED STATES SUPREME COURT SHOULD SPEEDILY FIND USE OF PLEDGE OF ALLEGIANCE IN SCHOOLS TO BE CONSISTENT WITH CONSTITUTION

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 245.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 245, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 383, nays 31, answered ''present'' 8, not voting 11, as follows:

[Roll No. 504]

YEAS—383

Abercrombie
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
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
Cardin
Cardoza
Carnahan
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole (OK)
Conaway
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
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
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Gene
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinojosa
Hobson
Hoekstra
Holden
Holt
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McGovern
McHenry
McHugh
McIntyre
McKeon
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Oxley
Pallone
Pascrell
Paul
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
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sanchez, Loretta
Sanders
Saxton
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
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 (CO)
Udall (NM)
Upton
Van Hollen
Visclosky
Walden (OR)
Walsh
Wamp
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NAYS—31

Ackerman
Blumenauer
Carson
Cleaver
Conyers
DeGette
Farr
Frank (MA)
Grijalva
Hastings (FL)
Hinchey
Honda
Johnson, E. B.
Jones (OH)
Lewis (GA)
Markey
McDermott
Nadler
Pastor
Payne
Schakowsky
Scott (VA)
Serrano
Stark
Towns
Velázquez
Wasserman Schultz
Waters
Watson
Waxman
Woolsey

ANSWERED ''PRESENT''—8

Capuano
Green, Al
Moore (WI)
Owens
Rush
Sánchez, Linda T.
Tierney
Watt

NOT VOTING—11

Boswell
Culberson
Davis (FL)
Gibbons
Gutierrez
Harman
Issa
Lee
Marchant
McKinney
Slaughter

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1231

So (two-thirds having voted in favor thereof) the rules were suspended and

the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. GIBBONS. Mr. Speaker, on rollcall No. 504 I was unavoidably detained. Had I been present, I would have voted "yea."

Mr. ISSA. Mr. Speaker, I was present in the Chamber and voted "yea" on H. Con. Res. 245. However, due to a malfunction, my vote was not recorded. As the author of the legislation, you can rest assured that I am a "yea" vote.

GENERAL LEAVE

Mr. LEWIS of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.J. Res. 68 and that I may include tabular material on the same.

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

There was no objection.

CONTINUING APPROPRIATIONS, FISCAL YEAR 2006

Mr. LEWIS of California. Mr. Speaker, pursuant to House Resolution 469, I call up the joint resolution (H.J. Res. 68) making continuing appropriations for the fiscal year 2006, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The text of the joint resolution is as follows:

H.J. RES. 68

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for fiscal year 2006, and for other purposes, namely:

SEC. 101. (a) Such amounts as may be necessary under the authority and conditions provided in the applicable appropriations Act for fiscal year 2005 for continuing projects or activities (including the costs of direct loans and loan guarantees) that are not otherwise specifically provided for in this joint resolution, that were conducted in fiscal year 2005, and for which appropriations, funds, or other authority would be available in the following appropriations Acts:

(1) The Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2006.

(2) The Department of Defense Appropriations Act, 2006.

(3) The Energy and Water Development Appropriations Act, 2006.

(4) The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006 (in the House of Representatives), or the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2006 (in the Senate).

(5) The Department of Homeland Security Appropriations Act, 2006.

(6) The Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2006.

(7) The Military Quality of Life and Veterans Affairs Appropriations Act, 2006 (in the House of Representatives), or the Military Construction and Veterans Affairs, and Related Agencies Appropriations Act, 2006 (in the Senate).

(8) The Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006 (in the House of Representatives), or the Departments of Commerce and Justice, Science, and Related Agencies Appropriations Act, 2006 (in the Senate).

(9) The Transportation, Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, and Independent Agencies Appropriations Act, 2006 (in the House of Representatives), or the Transportation, Treasury, the Judiciary, Housing and Urban Development, and Related Agencies Appropriations Act, 2006 (in the Senate) and the District of Columbia Appropriations Act, 2006 (in the Senate).

(b) Whenever the amount that would be made available or the authority that would be granted for a project or activity under an Act listed in subsection (a) as passed by the House of Representatives as of October 1, 2005, is the same as the amount or authority that would be available or granted under the same or other pertinent Act as passed by the Senate as of October 1, 2005—

(1) the project or activity shall be continued at a rate for operations not exceeding the current rate or the rate permitted by the actions of the House and the Senate, whichever is lower, and under the authority and conditions provided in applicable appropriations Acts for fiscal year 2005; or

(2) if no amount or authority is made available or granted for the project or activity by the actions of the House and the Senate, the project or activity shall not be continued.

(c) Whenever the amount that would be made available or the authority that would be granted for a project or activity under an Act listed in subsection (a) as passed by the House of Representatives as of October 1, 2005, is different from the amount or authority that would be available or granted under the same or other pertinent Act as passed by the Senate as of October 1, 2005—

(1) the project or activity shall be continued at a rate for operations not exceeding the current rate or the rate permitted by the action of the House or the Senate, whichever is lowest, and under the authority and conditions provided in applicable appropriations Acts for fiscal year 2005; or

(2) if the project or activity is included in the pertinent Act of only one of the Houses, the project or activity shall be continued under the appropriation, fund, or authority granted by the one House, but at a rate for operations not exceeding the current rate or the rate permitted by the action of the one House, whichever is lower, and under the authority and conditions provided in applicable appropriations Acts for fiscal year 2005.

(d) Whenever the pertinent Act covering a project or activity has been passed by only the House of Representatives as of October 1, 2005—

(1) the project or activity shall be continued under the appropriation, fund, or authority granted by the House, at a rate for operations not exceeding the current rate or the rate permitted by the action of the House, whichever is lower, and under the authority and conditions provided in applicable appropriations Acts for fiscal year 2005; or

(2) if the project or activity is funded in applicable appropriations Acts for fiscal year 2005 and not included in the pertinent Act of the House as of October 1, 2005, the project or activity shall be continued under the appropriation, fund, or authority granted by applicable appropriations Acts for fiscal year 2005 at a rate for operations not exceeding the current rate and under the authority and conditions provided in applicable appropriations Acts for fiscal year 2005.

SEC. 102. (a) No appropriation or funds made available or authority granted pursuant to section 101 for the Department of Defense shall be used for (1) the new production of items not funded for production in fiscal year 2005 or prior years; (2) the increase in production rates above those sustained with fiscal year 2005 funds; or (3) the initiation, resumption, or continuation of any project, activity, operation, or organization (defined as any project, subproject, activity, budget activity, program element, and subprogram within a program element, and for any investment items defined as a P–1 line item in a budget activity within an appropriation account and an R–1 line item that includes a program element and subprogram element within an appropriation account) for which appropriations, funds, or other authority were not available during fiscal year 2005.

(b) No appropriation or funds made available or authority granted pursuant to section 101 for the Department of Defense shall be used to initiate multi-year procurements utilizing advance procurement funding for economic order quantity procurement unless specifically appropriated later.

(c) Notwithstanding this section, the Secretary of Defense may, following notification of the congressional defense committees, initiate projects or activities required to be undertaken for force protection purposes using funds made available from the Iraq Freedom Fund.

SEC. 103. Appropriations made by section 101 shall be available to the extent and in the manner that would be provided by the pertinent appropriations Act.

SEC. 104. No appropriation or funds made available or authority granted pursuant to section 101 shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during fiscal year 2005.

SEC. 105. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any project or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 106. Unless otherwise provided for in this joint resolution or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available until whichever of the following first occurs: (1) the enactment into law of an appropriation for any project or activity provided for in this joint resolution; (2) the enactment into law of the applicable appropriations Act by both Houses without any provision for such project or activity; or (3) November 18, 2005.

SEC. 107. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 108. Appropriations and funds made available by or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing in this joint resolution may be construed to waive any other provision of law governing the apportionment of funds.

SEC. 109. Notwithstanding any other provision of this joint resolution, except section 106, for those programs that had high initial rates of operation or complete distribution of fiscal year 2005 appropriations at the beginning of that fiscal year because of distributions of funding to States, foreign countries, grantees or others, similar distributions of funds for fiscal year 2006 shall not be made and no grants shall be awarded for such programs funded by this joint resolution that would impinge on final funding prerogatives.

SEC. 110. This joint resolution shall be implemented so that only the most limited funding action of that permitted in the joint resolution shall be taken in order to provide for continuation of projects and activities.

SEC. 111. No provision that is included in an appropriations Act listed in section 101(a), but that was not included in the applicable appropriations Act for fiscal year 2005 and by its terms is applicable to more than one appropriation, fund, or authority, shall be applicable to any appropriation, fund, or authority provided in this joint resolution.

SEC. 112. No provision that is included in an appropriations Act listed in section 101(a), and that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation, shall be effective before the date set forth in section 106(3).

SEC. 113. Funds appropriated by this joint resolution may be obligated and expended notwithstanding section 10 of Public Law 91–672 (22 U.S.C. 2412), section 15 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2680), section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 6212), and section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)).

SEC. 114. (a) For entitlements and other mandatory payments whose budget authority was provided in appropriations Acts for fiscal year 2005, and for activities under the Food Stamp Act of 1977, activities shall be continued at the rate to maintain program levels under current law, under the authority and conditions provided in the applicable appropriations Act for fiscal year 2005, to be continued through the date specified in section 106(3) of this joint resolution.

(b) Notwithstanding section 106 of this joint resolution, funds shall be available and obligations for mandatory payments due on or about November 1, 2005 and December 1, 2005, may continue to be made.

SEC. 115. The provisions of, and amendments made by, sections 1011, 1012, 1013, 1023, and 1026 of Public Law 109–13 shall continue in effect, notwithstanding the fiscal year limitation in section 1011 and the provisions of sections 1012(i), 1013(e), 1023(c), and 1026(e) of that Public Law, through the earlier of (1) the date specified in section 106(3) of this joint resolution, or (2) with respect to any such section of Public Law 109–13, the date of the enactment into law of legislation that supersedes the provisions of, or the amendments made by, that section.

SEC. 116. The authorities provided by section 1306 of Public Law 107–314 shall continue in effect through the date specified in section 106(3) of this joint resolution or the date of the enactment into law of a defense authorization Act for fiscal year 2006, whichever is earlier.

SEC. 117. Section 6 of Public Law 107–57, as amended, shall be applied by substituting the date specified in section 106 of this joint resolution for ''October 1, 2005'', and sections 508 and 512 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (Public Law 108–447, div. D), as made applicable to fiscal year 2006 by the provisions of this joint resolution, shall not apply with respect to Pakistan through the date specified in section 106(3) of this joint resolution.

SEC. 118. (a) Funds provided in section 101 of this joint resolution for ''Social Security Administration-Limitation on Administrative Expenses'' may be used to complete the processing of appeals received prior to July 1, 2005 under sections 1852 and 1869 of the Social Security Act, notwithstanding section 931(b) of Public Law 108–173.

(b) The Commissioner of Social Security may enter into a reimbursable agreement with the Secretary of Health and Human Services to process, during fiscal year 2006, appeals received after June 30, 2005 and prior to October 1, 2005.

SEC. 119. For the purposes of section 101 of this joint resolution, amounts obligated in fiscal year 2005 from funding provided in section 1015 of Public Law 108–173 shall be deemed to have been provided in an applicable appropriations Act for fiscal year 2005.

SEC. 120. Notwithstanding section 101 of this joint resolution, amounts are provided for ''Department of Health and Human Services-Office of the Secretary-Medicare Appeals'' at a rate for operations not exceeding the rate set forth for such account in title II of H.R. 3010 of the 109th Congress, as passed by the House of Representatives.

SEC. 121. Section 1015(b) of Public Law 108–173 is amended by striking ''2005'' and inserting ''2006''.

SEC. 122. The authority provided by section 2011 of title 38, United States Code, shall continue in effect through the date specified in section 106(3) of this joint resolution.

SEC. 123. The authority provided by section 2808 of Public Law 108–136, as amended by section 2810 of Public Law 108–375, shall continue in effect through the date specified in section 106(3) of this joint resolution.

SEC. 124. The amendment made by section 1022 of Public Law 109–13 shall continue in effect through the date specified in section 106(3) of this joint resolution.

SEC. 125. Funds appropriated by section 101 of this joint resolution for the National Aeronautics and Space Administration may be obligated in the account and budget structure set forth in the pertinent Acts specified in section 101(a)(8).

SEC. 126. Funds appropriated by section 101 of this joint resolution for ''National Science Foundation-Research and Related Activities'' may be used for Arctic and Antarctic icebreaking maintenance and operations.

SEC. 127. (a) Notwithstanding any other provision of this joint resolution, except section 106, the District of Columbia may expend local funds for programs and activities under the heading ''District of Columbia Funds'' at the rate set forth for such programs and activities under title V of H.R. 3058, One Hundred Ninth Congress, as passed by the House of Representatives, and in addition, funds under ''District of Columbia Funds-Enterprise and Other Funds-Capital Outlay'' as included in the Fiscal Year 2006 Proposed Budget and Financial Plan submitted to the Congress by the District of Columbia on June 6, 2005.

(b) Section 2302 of Public Law 108–11, as amended by section 336 of Public Law 108–335 shall be applied by substituting the date specified in section 106(3) of this joint resolution for ''September 30, 2005''.

SEC. 128. The provisions of title II of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11311 et seq.) shall continue in effect, notwithstanding section 209 of such Act, through the earlier of (1) the date specified in section 106(3) of this joint resolution, or (2) the date of the enactment into law of an authorization Act relating to the McKinney-Vento Homeless Assistance Act.

SEC. 129. Notwithstanding section 101 of this joint resolution, amounts are provided for ''Department of Transportation-Federal Transit Administration-Administrative Expenses'' at a rate for operations not exceeding the total of budgetary resources made available for obligation for fiscal year 2005.

SEC. 130. Section 403(f) of Public Law 103–356 (31 U.S.C. 501 note) shall be applied by substituting the date specified in section 106(3) of this joint resolution for ''October 1, 2005''.

SEC. 131. Amounts made available by this joint resolution for the Department of Defense that are related to amounts provided in title IX of the Department of Defense Appropriations Act, 2006, as passed by the House, or related to amounts designated as emergency requirements in previous defense appropriations Acts or supplemental appropriations Acts, are designated as appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006, except that amounts so designated under this section shall not exceed $50,000,000,000.

The SPEAKER pro tempore (Mr. FOLEY). Pursuant to House Resolution 469, the gentleman from California (Mr. LEWIS) and the gentleman from Wisconsin (Mr. OBEY) each will control 30 minutes.

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

Mr. LEWIS of California. Mr. Speaker, I yield myself such time as I may consume, and I hope I do not consume very much.

Mr. Speaker, I am pleased to bring to the House the continuing resolution for fiscal year 2006. The CR will run through November 18. It is a clean CR without exception. Several Members are pushing the extension of dairy programs, adding emergency spending for the Corps of Engineers, and a whole host of other ideas. We have rejected them all. These items can be addressed in the next supplemental, regular fiscal year 2006 bills, or in reconciliation. The CR will fund agencies at the lower of three levels: the House-passed level, the Senate-passed level, or fiscal year 2005 current rates.

Agencies funded in the Labor-HHS, Treasury, Transportation and Defense bills will be funded at the lower of the House-passed or current rates since the Senate will not pass these bills by October 1. The House and Senate have not passed a CR under the current framework since 1994. By returning to a traditional CR that funds the government operations at the lowest possible level, it will provide a strong motivation for this Congress to complete its work in regular order and produce individual appropriations bills and conference reports.

I want the body to know the Committee on Appropriations is strongly committed to bringing back to this floor individual conference reports for each and every bill. The committee does not support an omnibus or minibus in any form and will do everything in its power to ensure that that does not happen.

I remain committed to moving these bills individually and within the framework of the budget resolution. In order

to help the Senate with the difficult process of passing the Treasury, Transportation and Labor-HHS bills, we will continue to push the lower rate, long-term continuing resolution prospect. I am convinced that this is the only way for us to get back to regular order. The House and Senate committees on appropriations are both committed to this goal.

With regard to the regular order appropriations bills, the Interior and Legislative branch conference reports have been signed into law. The Homeland Security conference concluded just this morning, and we expect to file a conference report today.

The Senate has now passed eight appropriations bills, and the ninth is expected to be completed by early next week. We have begun giving notional allocations to Energy and Water, Foreign Operations, Science, Justice, State and Commerce and Agriculture subcommittees so they can begin negotiating. We are making very good progress.

This continuing resolution is an important step toward achieving our goal of restoring regular order to the congressional appropriations process.

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

Mr. OBEY. Mr. Speaker, I yield myself 13 minutes.

Mr. Speaker, I do not know quite what to say about this continuing resolution. I have a lot of notes here, most of which I will not use, but let me simply note that this is another case of the failure to effectively govern by the Republican President and the Republican majority in this Congress. We are here facing an end of the fiscal year situation 3 days from now. We have failed in the basic test of governing, and I think it is important to understand why.

Throughout the year, we on the Democratic side of the aisle, in the minority, have worked with the majority on every possible procedural issue and cooperated with them procedurally at every juncture so that we could enable this House to pass the 10 appropriation bills that are necessary to pass, even though we disagreed in most instances with the content of those bills.

When I was asked by numerous Members of my caucus and a number of members of the press why we were cooperating procedurally when we opposed the substance of many of the bills, I made it clear. I said we were cooperating because I wanted the record to show at the end of the year, when the Republican majority failed to pass its appropriation bills by the end of the year, I wanted the record to show clearly why.

Now we are here and in spite of our procedural cooperation, the Republican majority has managed to pass only two of the 10 appropriation bills under our responsibility. Why? In my view it is because the majority caucus has such a fundamental disrespect for the basic functions of government that it has sacrificed and squeezed so many education and health and veterans and other programs in order to pay for huge, supersize tax cuts for the most wealthy among us, that, in the end, they have not been able to convince their Senate colleagues to go along and go on record and endorse those cuts. So now we are faced with a stopgap funding bill which is brought to the House floor by the gentleman from California.

Normally, if Congress fails to pass its appropriation bills, then it continues funding at the existing rate until Congress can get its act together. Instead, this bill does something quite different. It says that for the time period under the continuing resolution, we will be spending at the lower of either last year or the House-passed bill or the Senate-passed bill. That results in a number of, I think, extremely inequitable realities. It, for instance, means that we are effectively cutting $800 million below last year and $400 million below the President in the field of education. It means that we are cutting essential job training programs below last year and cutting job training formula grants by $138 million.

In health care, it means that we are cutting maternal and child health care, and we are cutting rural health outreach programs. It means that we are cutting the Community Service Block Grant, a program which deals with the needs of the poorest people in this society by 50 percent. It means that we are eliminating the 10 percent increase that this House had planned for veterans health care. It means that we are cutting the FBI by $616 million below the House-passed bill. It means that we are freezing low-income heating assistance at a time when the cost of home heating for low-income Americans is going to rise by 40 to 50 percent. But it leaves intact, it leaves intact the huge, supersize tax cuts for the top 1 percent of earners in this society, people who make more than $400,000 a year.

And it leaves in place the President's edict, his unilateral edict in the wake of Hurricane Katrina, that the workers in the afflicted area who are trying to put that area back together are not even going to be allowed to get a decent prevailing wage that they would otherwise be guaranteed under Davis-Bacon. And yet while it is chiseling on the wages of those workers, it is saying to the persons who make over $400,000 a year, on average you are going to get a $32,000 tax cut.

Mr. Speaker, $32,000 is a lot more than a lot of people in this country make in a year. A huge percentage of my district makes less than that $32,000.

□ 1245

But we are going to give an average $32,000 tax cut to the people in this society who need it least. The bill also assures the death of one part of the farm bill that was passed 3 years ago. It makes sure that the only major farm bill that is going to expire is the program that is given some financial support to the smallest farmers in this country, the MILC program.

Now, the question is being asked in this town, ''How are we going to pay for Hurricane Katrina?'' In my judgment, Mr. Speaker, that is the wrong question. Katrina, no matter what the eventual cost is and it is going to be large. It is going to be somewhere between $100 billion and $200 billion, I expect. Let us say it is $100 billion. That is a huge amount of money. But this economy is large enough to handle that because it is essentially a one-time bubble. Even though it will be spent out over the next 3 or 4 years, it is a one-time event, and this economy is always big enough to handle that.

But the right question to be asking is not how are we going to pay for Katrina? The right question is: ''How are we going to be able to pay for the decisions already made by the Republican majority of this Congress and the White House to give away to the wealthiest people in this society, the top 1 percent, over $1 trillion in tax cuts over the next decade?'' We are going to give away, in tax cuts to the top 1 percent, ten times as much as Katrina is being estimated to cost. So the right question to ask is: ''What are we going to do so that we can afford to pay for the Katrinas that come along and the Iraqi War, where we have a war of choice driven by a President who misled us into that war by giving us false and misleading information?''

So if the Members vote for this continuing resolution today, they are voting to keep those giant tax cuts in place. They are voting to do not one blessed thing to deal with the long-term fiscal impact that they have on the country and, yes, will be chiseling on some of the programs that I just mentioned.

Mr. Speaker, I am going to offer a motion to recommit, which does a number of things. I am going to offer a motion to recommit, which, number one, would provide that the funding levels in this bill be at the current rate rather than the three-headed rate spelled out by the gentleman, so that we do not, even for a month, cut back on what we are doing on job training or community service block grants or low-income heating assistance or other programs like that. Second, it will ask that we treat all farm programs the same. Third, it will restore Davis-Bacon prevailing wages. It will countermand the President's unilateral edict. And that is basically what I will be asking the House to do.

Under the rules of the House, as they have been jury-rigged, under the rule of the House, if a Member of the House lodges a point of order, this motion to recommit will not be allowed to obtain a vote. But if persons on the majority side of the aisle refrain from lodging a point of order, then the House would be allowed to vote on a measure which restores equity to the farm programs, on a measure which restores equity to

funding levels for all programs, and it would restore Davis-Bacon protections for workers as well. And it would also, I should add, instruct the Congress to come back with a change in the Tax Code so that we limit the size of the tax cuts for people who make over $400,000 to the size received by persons in the top 5 percent of the economy. That means they still get at least a $9,000 tax cut on average. That is not bad.

To those in the majority side of the aisle who say that we should not be doing that, I would say that does not surprise me because that represents the economic philosophy of the majority party. To those on the Democratic side of the aisle who might find it a little nerve-racking to vote to scale back tax cuts even for those well-off folks, my suggestion is if they cannot even stand up and do that, they might as well go and cross the aisle.

Mr. THOMAS. Mr. Speaker, I submit the following correspondence for the RECORD.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
Washington, DC, September 29, 2005.

Hon. JERRY LEWIS,
Chairman, Committee on Appropriations, Washington, DC.

DEAR CHAIRMAN LEWIS: I am writing concerning H.J. Res. 68, making continuing appropriations for the fiscal year 2006, and for other purposes, which is currently scheduled for floor consideration today.

As you know, the Committee on Ways and Means has jurisdiction over matters concerning Medicare. There are two sections within the introduced resolution that are within the authorizing jurisdiction of the Committee on Ways and Means. Section 118 of the resolution allows the Social Security Administration to continue hearing Medicare appeals pending the transfer of that authority to the Department of Health and Human Services. Secondly, Section 121 extends for one year the availability of an appropriation provided to the Centers for Medicare and Medicaid Services and the Social Security Administration under the Medicare Prescription Drug, Improvement, and Modernization Act of 2003.

However, in order to expedite this legislation for floor consideration, the Committee will forgo action on this resolution. This is being done because of the agreement reached by our respective committees' staff. An e-mail on this issue, sent by the committee, states, ''We are happy to concede your jurisdiction in this matter, and included the language solely because of OMB's [Office of Management and Budget] request that we do so. We don't believe that it prejudices any future action on your part.''

I will place a copy of this letter in the Congressional Record during floor consideration.

Best regards,

BILL THOMAS,
Chairman.

Mr. OLVER. Mr. Speaker, in the wake of Hurricanes Katrina and Rita, our country has been made brutally aware that there in fact are two Americas that exist in this country. Recently released census data shows that in 2004, 37 million people were living in poverty. In addition, this data shows that 1 in 6 children were living in poverty. Yet despite the overwhelming evidence of growing poverty rates and recent images of evacuees unable to leave New Orleans due to their economic situation, this Congress is proposing drastic cuts to Community Service Block Grants funding.

CSBG gives funding to a vast array of programs, including senior citizen congregate meal sites, home delivered meals, transportation programs, job training programs, Head Start, energy crisis assistance, housing programs, education programs, and many other programs to address the needs of low-income families and individuals.

The 50 percent cut to CSBG in the Continuing Resolution would have a devastating effect on evacuees and on low-income individuals. At a time when our country has been severely impacted by natural disasters, it is extremely urgent that Congress maintain CSBG funding at its current level so that the delivery of much needed services to low-income people is not disrupted.

We have a responsibility to ensure that all Americans have an opportunity to share in America's prosperity. It is irresponsible that we approve a Continuing Resolution that cuts funding for CSBG by 50 percent below current funding levels when there is such an obvious need for the services that this funding provides.

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

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

The SPEAKER pro tempore (Mr. FOLEY). All time for debate has expired.

The joint resolution is considered read for amendment and pursuant to House Resolution 469, the previous question is ordered.

The question is on the engrossment and third reading of the joint resolution.

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

MOTION TO RECOMMIT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the joint resolution?

Mr. OBEY. I most certainly am, Mr. Speaker.

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

The Clerk read as follows:

MOTION TO RECOMMIT HOUSE JOINT RESOLUTION 68, MAKING CONTINUING APPROPRIATIONS FOR FISCAL YEAR 2006

Mr. OBEY moves to recommit House Joint Resolution 68 to the Committee on Appropriations with instructions to report the same back to the House forthwith with the following amendments:

On page 2, line 7, insert after ''fiscal year 2005,'', ''at a rate for operations not exceeding the current rate''.

On page 2, line 8, strike ''would be'' and insert ''was made''.

On page 2, line 12, strike ''2006'' and insert ''2005''.

On page 2, after line 12, insert ''(2) The Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 2005''.

On page 2, line 13, strike ''(2)'' and insert ''(3)''.

On page 2, line 14, strike ''2006'' and insert ''2005''.

On page 2, after line 14, insert ''(4) The District of Columbia Appropriations Act, 2005'', and renumber the succeeding subsections of section 101 accordingly.

On page 2, line 16, strike ''2006'' and insert ''2005''.

On page 2, line 18, strike ''2006'' and all that follows through page 2, line 21, and insert ''2005''.

On page 2, line 23, strike ''2006'' and insert ''2005''.

On page 3, line 3, strike ''2006'' and insert ''2005''.

On page 3, line 4, strike ''Quality'' and all that follows through page 3, line 8, and insert ''Construction Appropriations Act, 2005''.

Strike page 3, line 9 through page 3, line 13.

On page 3, line 14, strike ''Housing'' and all that follows through ''Columbia'' on page 3, line 16.

On page 3, line 17, strike ''2006'' and all that follows through page 3, line 22 and insert ''2005''.

On page 3, after line 22, insert ''(11) The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2005''.

On page 3, line 23, strike ''Whenever'' and all that follows through page 6, line 6 and insert ''The appropriations Acts listed in subsection (a) shall be deemed to include supplemental appropriations laws enacted during fiscal year 2005.''.

Strike page 9, line 9 and all that follows through page 9, line 21.

At the end of the joint resolution add the following new sections:

''SEC. . Amounts made available by this joint resolution that are related to amounts designated as emergency requirements in previous appropriations Acts, other than amounts to which section 131 applies, are hereby designated as emergency requirements pursuant to section 402 of H. Con. Res. 95 (95th Congress), the concurrent resolution on the budget for fiscal year 2006.

SEC. . During fiscal year 2006, notwithstanding the proclamation by the President dated September 8, 2005 or any other proclamation issued pursuant to section 3147 of Title 40, United States Code, the provisions of subchapter IV (except section 3147) of chapter 31 of title 40, United States Code (and the provisions of all other related acts to the extent they depend upon a determination by the Secretary of Labor under section 3142 of such title, whether or not the President has the authority to suspend the operation of such provisions), shall apply to all federally-funded contracts to which such provisions would otherwise apply that are entered into on or after the date of enactment of this Act, to be performed in the jurisdictions affected by Hurricane Katrina and Hurricane Rita.

SEC. . Section 1502 (f) and (g)(1) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7982) shall be applied by substituting the date specified in section 106(3) of this joint resolution for ''September 30, 2005''

SEC. . Section 201(b) of H. Con. Res. 95 (relating to revenue reconciliation in the House of Representatives) shall be applied as if ''(1)'' was inserted after ''(b)'' and the following new paragraph was added at the end:

(2) REDUCTION IN TAX CUTS FOR TAXPAYERS WITH INCOMES IN THE TOP 1 PERCENT OF THE POPULATION.—The Committee on Ways and Means shall also include in the reconciliation bill reported pursuant to paragraph (1) changes in tax laws to increase revenues by reducing or offsetting the tax reductions received during 2006 by the top 1 percent of taxpayers as a result of the Economic Growth and Tax Relief Reconciliation Act of 2001 and the Jobs and Growth and Tax Relief Reconciliation Act of 2003 such that the average tax cut received by that class of taxpayers equals the average tax cut resulting from those Acts for the top 5 percent of taxpayers.''

Mr. OBEY (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

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

There was no objection.

Mr. LEWIS of California. Mr. Speaker, I reserve a point of order on the gentleman's motion.

The SPEAKER pro tempore. A point of order is reserved.

The gentleman from Wisconsin is recognized for 5 minutes in support of his motion.

Mr. OBEY. Mr. Speaker, very briefly, section 1 of the motion to recommit would simply provide that we fund the programs covered under the continuing resolution at the current rate rather than at the lower of either the current rate of the House-passed or the Senate-passed bill. I have already explained the impact of that on program. Section 2 would simply repeal the President's edict that workers in the Katrina-affected region would not be subject to the protections of Davis-Bacon wage protections. Section 3 would simply guarantee that the MILC program remains in force for the same length of time as other titles of the farm bill. And section 4 would require a reduction in the size of the tax cuts for taxpayers with incomes of over $400,000, as I just described in my previous remarks.

POINT OF ORDER

Mr. LEWIS of California. Mr. Speaker, I make a point of order under clause 7 of rule XVI. The instructions proposed in the motion to recommit range far beyond the subject matter of the joint resolution.

The SPEAKER pro tempore. Does the gentleman from Wisconsin wish to be heard on the point of order?

Mr. OBEY. Yes, I do, Mr. Speaker.

The SPEAKER pro tempore. The gentleman is recognized.

Mr. OBEY. Mr. Speaker, if the rules required equity in legislation we brought to the floor, this amendment would be in order. Unfortunately, they do not; so I must reluctantly concede the point of order.

The SPEAKER pro tempore. The point of order is conceded and sustained. The motion is not in order.

The question is on the passage of the joint resolution.

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

Mr. OBEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

GENERAL LEAVE

Mr. POMBO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill, H.R. 3824.

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

There was no objection.

THREATENED AND ENDANGERED SPECIES RECOVERY ACT OF 2005

The SPEAKER pro tempore. Pursuant to House Resolution 470 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. 3824.

The Chair designates the gentleman from New York (Mr. SWEENEY) as chairman of the Committee of the Whole, and requests the gentleman from Idaho (Mr. SIMPSON) to assume the chair temporarily.

□ 1258

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. 3824) to amend and reauthorize the Endangered Species Act of 1973 to provide greater results conserving and recovering listed species, and for other purposes, with Mr. SIMPSON (Acting Chairman) in the Chair.

The Clerk read the title of the bill.

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

Under the rule, the gentleman from California (Mr. POMBO) and the gentleman from West Virginia (Mr. RAHALL) each will control 45 minutes.

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

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

We bring up today the Endangered Species Reform Act with the purpose of trying to deal with what some of the real issues are, what some of the real problems are that we have had and have developed over the last 30 years.

If one goes back and reads the original Endangered Species Act, it becomes difficult to be critical of specific language that is it in because the purpose of the Endangered Species Act was to, first of all, prevent species from becoming extinct but, more importantly, to recover those species. And as we look at what has happened over the intervening 30 years, we begin to realize just what problems are with the Act and the way it is being implemented today.

I came into this debate originally because I did not like the way that private property owners were treated under the implementation of the law. That became a big issue in my district and throughout much of the West. Private property owners felt threatened that they would lose their private property and that they could lose control and the ability to use their private property under the implementation of the law.

□ 1300

That became a big problem, and it is something that we began to work on, to try to have some kind of property rights protections in the law.

But the more I got into the Endangered Species Act, the more I realized the law was just not working in terms of recovering species. About 1,300 species have been listed under the Endangered Species Act. Of those 1,300, 10 have been removed because they were recovered. More species have been removed from the list because they became extinct than were recovered.

That less than 1 percent is a complete failure, so we began to really look at the law and see are species really doing better under the Endangered Species Act, and we came to the conclusion that they were not. About three-quarters of the species are either declining in population or the Fish and Wildlife Service has no idea. That is not a success.

When people talk about the act and its importance, they are right, it is important. It is something we all share in terms of preserving wildlife and preserving species. But when the law is not working, we have to respond to that and step in and reauthorize the bill, put the focus on recovery and protect private property owners.

As we have gone through this last several months, I have had the opportunity to work with the ranking member, the gentleman from West Virginia (Mr. RAHALL), and his staff; and I thank them for all of the work that they put into this bill to get us to this point. We worked extremely hard to try and find a compromise bill.

In the end, there were a few issues that we just disagreed on, there were issues we could not come to a conclusion on, but the vast majority of what is in the underlying bill was an agreement that we were able to work out and that I stand by. I believe it is good work, that it is something that is extremely important.

But I will say that, in the end, private property rights, the protection of those property owners, has to be in the final bill, because the only way this is going to work is if we bring in property owners to be part of the solution and be part of recovering those species.

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

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

Mr. Chairman, the gentleman from California and I have been working together for the last several months to try to find common ground on the amendments to the Endangered Species Act. As the chairman knows and many of my colleagues, I came to our discussions with the view that the ESA does not need amendment, that most of its problems could be fixed by additional appropriations or administrative changes that this administration is not willing to make.

Recognizing reality, I decided to enter into good-faith negotiations with

my chairman, and that is what they were. I salute the manner in which the gentleman from California conducted himself and the manner in which his staff treated the minority during this entire process. It was a fair process; and, indeed, when we had problems, we found open communication was received from the other side of the aisle, and I appreciate that. In the end, however, we could not reach agreement.

I do not support the pending legislation, but I must admit that we have come a long way. Yet we still have differences that divide us, differences in some instances that I have yet to discover. In fact, the manager's amendment has been redrafted so many times, the latest version is still hot off the presses.

I wish the bill, because of these latest changes in the manager's amendment, were not being rushed to the House floor. I wish that the driving force was not the zeal to pass anything that could be labeled ESA reform, but instead could be labeled truly species recovery.

With a little more time to consider how much this bill is going to cost the American taxpayers, we could at least have had a chance to see how much we are going to lose in the exchange. In the last several hours, the bill passed out of the committee has completely blown apart. For example, the manager's amendment abandons the definition of jeopardizing a species we agreed upon in committee. Instead, the Secretary of the Interior will use existing regulations which allow Federal actions to proceed, even if they will reduce the likelihood of a species' survival and recovery. The survival standard is akin to keeping a patient on life support without any chance of recovery.

According to the Congressional Budget Office, if this is enacted into law, it will increase direct spending and would cost almost $3 billion to implement from the years 2006 to 2010.

So in my view, this bill offers endangered species less protection at far greater cost. Not only was fiscal responsibility thrown to the wind in this process, but we have turned back the clock to an era in which DDT was commonly known as ''drop dead twice.'' H.R. 3824 includes a provision adopted in the Committee on Resources that would repeal the Endangered Species Act provisions that protect threatened and endangered species from the harmful impact of pesticides.

H.R. 3824 would insulate those who use pesticides from the Endangered Species Act prohibitions against killing endangered and threatened species. As long as corporations comply with Federal requirements to register pesticide users, they will have no obligation to meet the requirements in the Endangered Species Act. The economic and environmental implications of this provision are staggering.

But where the budget really leaks is from the gaping hole created by a new, potentially open-ended entitlement program for property developers and speculators. This, I might add, is where we truly broke down in our negotiations.

Section 14 would establish the dangerous precedent that private individuals must be paid to comply with an environmental law. If this language were applied to local zoning, no mayor, no city council could govern a community without fear that their decisions might drive the community into financial ruin. This section pays citizens to comply with the law. What is next, paying citizens to wear seat belts, to comply with speed limits, to pay their taxes?

This bill also contains provisions that would severely weaken the consultation process, the very heart of the ESA. Under current law, the Fish and Wildlife Service analyzes a proposed action to gauge if it is likely to place the continued existence of a species in jeopardy. The process is grounded in science and must meet reasonable criteria.

This bill, quite to the contrary of current practice, wipes away any standards for that process. It wipes away review by wildlife experts. Gone. Proponents claim this change is justified because of the service's heavy workload. Instead of fixing the problem by giving Fish and Wildlife more resources, the bill simply changes the rules and undermines species recovery.

Finally, Mr. Chairman, I oppose another provision that would further weaken the section 7 consultation requirement when applied to state cooperative agreements. Under section 10 of H.R. 3824, no additional consultations will be required once the Secretary enters into a cooperative agreement with a State. It is questionable whether consultation would ever occur, even in those situations causing jeopardy to a listed species.

These provisions, taken together, raise a whole host of questions and concerns. What is clear is that this bill will not improve species' ability to recover. Quite likely it will result in more extinctions, the loss of more of the creatures God has placed in our care. Frankly, we cannot be good stewards of His creation and pass this bill.

For these reasons, Mr. Chairman, I strongly oppose H.R. 3824. However, I have worked, as I said in the beginning, well with the gentleman from California on this bill; and I do salute his tenaciousness, his patience, and his courage in bringing this bill to the floor.

I would have preferred we keep trying to resolve our differences, but that is not the situation we are in today, so I would urge my colleagues to oppose H.R. 3824.

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

Mr. POMBO. Mr. Chairman, I yield 3 minutes to the gentleman from Montana (Mr. REHBERG).

Mr. REHBERG. Mr. Chairman, I want to thank the gentleman from California for keeping this issue on the front burner.

I have come to learn in my time in Congress that people support reform, as long as it does not change anything, and that is what we find with the endangered species reform.

I thought I was given a great honor when I first got here in the year 2001. The gentleman from Alaska (Mr. YOUNG) of the Committee on Resources put me on the study group to talk about the Endangered Species Act, to try and finally get it off the dime. The gentleman from West Virginia (Mr. RAHALL), the gentleman from Michigan (Mr. DINGELL), and the gentleman from California (Mr. GEORGE MILLER) were the Democrats; and the gentleman from Alaska (Mr. YOUNG) and the gentleman from California (Mr. POMBO) and myself were the Republicans, and, unfortunately, it took us literally 6 months to finally agree what time to meet and where.

The difficulty with the Endangered Species Act is it is failing endangered species. Anytime you start getting T-shirts and bumper stickers and jokes about a law, you know you have got a problem. I brought along a shovel today because the biggest joke in Montana is shoot, shovel, and shut up.

The problem is there are those that want to protect species. They do not want them to become extinct. They want to do the right thing. But this Congress many years ago created a disincentive to do the right thing, rather than an incentive; and if you learn anything about public administration or government, when you create a disincentive, usually you are pretty successful.

We are not saving the species we need to. We need to get off the dime. We need to finally solve this issue. Everybody recognizes it is broke. We can no longer use the excuse that it is just not exactly what we want. It is time to end the joke of shoot, shovel, and shut up.

I want to thank the gentleman from California for bringing this issue forward and finally getting off the dime and giving us an opportunity to vote for a reform package that truly does what we need to do, and that is save the species of this country.

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

Mr. POMBO. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. HERGER).

Mr. HERGER. Mr. Chairman, would the chairman of the Committee on Resources agree to enter into a colloquy?

Mr. POMBO. Yes, Mr. Chairman, I would.

Mr. HERGER. First let me say to the gentleman that I am very appreciative of his efforts here to make the ESA a better law.

Mr. Chairman, it is my understanding that the legislation would provide the President the authority to waive or expedite any provision of the act in the event of a major national disaster. I also understand that the legislation would require the Secretary to

develop regulations establishing procedures for an expedited application or waiver of the act for agency actions that would be undertaken to address threats to human health or safety.

Mr. POMBO. The gentleman is correct.

Mr. HERGER. I thank the chairman.

As you know, Mr. Chairman, a terrible situation occurred in my district in Northern California several years ago where a levee that protects one of the communities I represent had deteriorated to such a point that the Corps of Engineers predicted that this degraded levee, without repair, presented a threat to human life. Regrettably, repairs to that levee were unable to proceed in a timely manner due to the lengthy consultation process, even though this very serious warning had been issued by the corps. I am sure the chairman has heard of other similar examples where the application of the Endangered Species Act has complicated or delayed urgent and targeted levee repairs from occurring when they are needed to protect people from flooding.

Mr. POMBO. Mr. Chairman, I am certainly well aware of the situation that the gentleman is speaking to. I was a Member of Congress at the time that that levee broke and tried at that point to help the gentleman to take care of that problem before it broke.

Mr. HERGER. Mr. Chairman, it is my understanding that the Secretary currently has in place emergency regulations that allow for expedited consultation in the event of an immediate threat to public safety, as, for example, when the floodwaters are rising and are feet or perhaps even inches away from breaking or breaching a levee.

Is the chairman's understanding that the intent of the legislation is to require the development of additional regulations that would allow the Secretary to expedite the application of the act for agency actions necessary to address threats to human health or safety?

Mr. POMBO. The gentleman is correct.

Mr. HERGER. Mr. Chairman, I thank the gentleman for that clarification.

Again, Mr. Chairman, I want to commend the gentleman for his leadership and years of work he has invested in making the Endangered Species Act a more responsive and effective law.

□ 1315

Mr. POMBO. Mr. Chairman, I ask unanimous consent to allow the gentleman from California (Mr. CARDOZA) to have 20 minutes of my time and to control that time.

The CHAIRMAN. The gentleman is advised that the Committee of the Whole is not able to entertain such a request.

Mr. RAHALL. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, in response to the last colloquy that just took place between the two gentlemen from California in regard to emergency powers that would be granted the President to waive provisions of the Endangered Species Act, I just wanted to respond that the Endangered Species Act did not get in the way in any manner whatsoever of recovery efforts in response to Hurricanes Katrina and Rita. Whatever provisions that were needed to be waived were waived under current law, without any additional authority being needed by the President.

So I just wanted to make that clear for the record that ESA did not hamper any recovery efforts for any of the most recent hurricanes.

Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Arizona (Mr. GRIJALVA), a distinguished member of our committee.

Mr. GRIJALVA. Mr. Chairman, today I rise in opposition to H.R. 3824.

In the 1960s, Rachel Carson's book ''Silent Spring'' documented the harmful effects of DDT and other pesticides on songbirds. This prompted a ban on DDT and the passage of the original Endangered Species Act. The ban on DDT, which the EPA said posed unacceptable risks to the environment and human health, saved the bald eagle and countless other species from going extinct.

Today we are considering a bill that would usher in another silent spring by eliminating the oversight for the registration of pesticides which harm wildlife and people.

H.R. 3824 contains a provision allowing EPA to consult with itself in determining the potential impacts of pesticide registration on endangered wildlife and fish, instead of consulting with the Fish and Wildlife Service or the National Marine Fisheries Service, which are the expert agencies whose mission is either in whole or in part to conserve species.

H.R. 3824 would take away the ability to stop pesticide use even when necessary to prevent extinction. Without existing checks and balances on pesticide use, the effect on wildlife could be devastating. Humans could be hurt too, because toxic pesticides are applied by farm workers that make their way into our Nation's streams, rivers, and food supply.

Pesticides poison 10,000 to 20,000 agricultural workers each year and are estimated to kill more than 67 million birds annually. But the EPA currently only requires balancing the profits from using a pesticide against the dollar value of harm caused by that pesticide. The Endangered Species Act, on the other hand, recognizes what almost all Americans believe, that no dollar amount can be placed on the extension of our Nation's treasured wildlife or on the human health of people who work in those fields.

The substitute to H.R. 3824 would leave existing law unchanged. It would leave in place current safeguards by requiring an analysis based on the health of wildlife, not the company's bottom line.

For this reason and many others, I urge my colleagues to join me in opposing this controversial bill and voting ''yes'' on the Miller substitute.

Mr. POMBO. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. GOODLATTE) having assumed the chair, Mr. SWEENEY, 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. 3824) to amend and reauthorize the Endangered Species Act of 1973 to provide greater results conserving and recovering listed species, and for other purposes, had come to no resolution thereon.

CONTROLLING TIME OF GENERAL DEBATE DURING FURTHER CONSIDERATION OF H.R. 3824, THREATENED AND ENDANGERED SPECIES RECOVERY ACT OF 2005

Mr. POMBO. Mr. Speaker, I ask unanimous consent that during consideration of H.R. 3824 pursuant to H. Res. 470 that the gentleman from California (Mr. CARDOZA) may control 20 minutes of my time.

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

There was no objection.

THREATENED AND ENDANGERED SPECIES RECOVERY ACT OF 2005

The SPEAKER pro tempore. Pursuant to House Resolution 470 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3824.

□ 1320

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3824) to amend and reauthorize the Endangered Species Act of 1973 to provide greater results conserving and recovering listed species, and for other purposes, with Mr. SWEENEY in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, the gentleman from California (Mr. POMBO) had 36½ minutes remaining and the gentleman from West Virginia (Mr. RAHALL) had 36 minutes remaining.

Pursuant to the order of the House of today, the gentleman from California (Mr. POMBO) has 16½ minutes remaining and the gentleman from California (Mr. CARDOZA) has 20 minutes remaining.

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

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

Mr. Chairman, when the Endangered Species Act was adopted by Congress in 1973, it was heralded as landmark use of environmental legislation for the protection and conservation of threatened and endangered species. At that time, it was clearly understood that the ultimate goal of the act was to focus Federal resources on listed species so that, in time, they could be returned to a healthy state and be removed from the list.

I fully support the goal of species protection and conservation and believe that recovery and ultimately delisting of species should be the U.S. Fish and Wildlife Service's top priority under ESA. I am in full support of the Threatened and Endangered Species Recovery Act that we are hearing today because I think it is an innovative and creative approach to ending the long-running conflict between protecting species and enforcing conservation actions on private land.

There seems to be no question that ESA is due for an update since the substitute offered by many of my colleagues eliminates critical habitat in much the same manner as H.R. 3824. For good reason, too. Currently, the system of critical habitat designations is so dysfunctional that it seems to defy logic.

For example, in 2002, the service proposed to designate 1.7 million acres as critical habitat in California and Oregon for vernal pool species. Almost one-third of the entire acreage of Merced County, where I live, would have been designated as critical habitat.

In 2003, the service proposed over 4.1 million acres in California as critical habitat for the red-legged frog. One must wonder, if it can be found on 4 million acres, then is it truly endangered; or, on the flip side, are all 4 million acres truly critical habitat?

The Threatened and Endangered Species Recovery Act will fix the problems associated with critical habitat by replacing it with a recovery plan which will shift the focus from litigation to biology and recovery; provide for greater cooperation between the service and landowners and States; establish new incentives for voluntary cooperation efforts.

Coming up with a thoughtful way to enable recovery of endangered species without costly litigation has been a top priority for me since being elected to the Congress, and I am pleased that this bill does just that. My original bill, H.R. 2933, from the 108th Congress, tied the development of a recovery plan to the designation of critical habitat. The Threatened and Endangered Species Recovery Act takes that idea one step further and elevates the recovery plan system to the primary mechanism to protect species.

I also feel compelled, however, to mention a few things that this bill does not do. This bill does not, and I repeat, does not weaken current law; it does not create a sweeping new entitlement program for landowners; it does not allow for pesticides to be used at random to harm farm workers and at-risk species; and it most definitely would not in any case allow for national treasures like the bald eagle and the grizzly bear to become extinct. That has been reported by a number of my colleagues, and it is simply not true.

In fact, I think many of my colleagues would be interested to know that my office has been inundated by representatives from so-called industry lobbyists requesting that certain provisions that were once included in this bill be put back in.

This bill is in no way a home run for anyone. In my opinion, it is a true balance between the sides, no side getting everything they want; and, when you achieve that, you usually have the best policy.

I think it is unfortunate that the media and some members of the environmental community have chosen to vilify this bipartisan legislation over the past few weeks and provide nothing but a knee-jerk negative analysis because they have already prejudged Chairman POMBO's bill as being the enemy.

Now we are here battling it out on the floor against one another, and another opportunity could be lost for us to move the ball forward together. I am proud of this bill, and I am proud of the work that Chairman POMBO and his staff have done to create a document that is truly a compromise, and it is a real shame we could not agree on these last few things.

Whether some people want to admit it or not, the ESA is not working to the best of its ability to protect the species, and it is our job as Members of Congress to do something about it. We can do better, and better is voting in favor of this bill.

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

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

Ms. WATSON. Mr. Chairman, we must protect what we can never get back. We are not only protecting wildlife, but we are defending our citizens as well.

The stringent regulations in the Endangered Species Act have benefited many species in our great country. Our national symbol, the bald eagle, is one of the most profound stories of recovery in progress. The American alligator, the Peregrine falcon, and the California condor are but a few examples of species that have benefited by the provisions in the bill. According to the United States Fish and Wildlife Service, nearly half of the species that had been on the list more than 7 years were stable or improving, and those are the facts.

Mr. Chairman, H.R. 3824 is full of giveaways to large development companies and other special interests. The Pombo legislation includes provisions that require the government to use taxpayer dollars to pay developers and other special interests not to violate the Endangered Species Act, instead of creating commonsense incentive programs that would foster greater involvement in conservation efforts.

Congress should choose to send a national message regarding the mindful stewardship of our country. If not, further abuses will occur as evidenced by Governor Schwarzenegger in my own home State of California. Tuesday, the Governor fired all six members of the State Reclamation Board, an agency that oversees flood control. The board had recently become aggressive about slowing development on the flood plains.

Is the Governor's protection of developers and big landowners worth the devastation that oversight can avoid? Congress would be wise to take notice, in light of the no-bid contracts, pleas to exempt all environmental regulations in the gulf States after Katrina, and the same old companies slurping up Federal funds in egregious excess.

Mr. Chairman, the gentleman from California's bill is not the legislation we need. It would also allow the unlimited use of dangerous pesticides at the expense of the people, plants, and wildlife. This bill would repeal all Endangered Species Act provisions that regulate the use of pesticides like DDT, which nearly resulted in the extinction of the American bald eagle in the mid-20th century and decimated the California brown pelican population in my own State.

□ 1330

We must protect what we can never get back.

Mr. Chairman, I strongly urge my colleagues to defeat this bill.

Mr. POMBO. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia (Mr. GOODLATTE), the chairman of the Committee on Agriculture.

Mr. GOODLATTE. Mr. Chairman, I rise in support of H.R. 3824, the Threatened and Endangered Species Recovery Act. I congratulate the gentleman from California (Mr. POMBO) and the gentleman from California (Mr. CARDOZA) for their outstanding work on this legislation.

This legislation will reform the 1973 Endangered Species Act so that real species recovery can be achieved while minimizing conflict with landowners, businesses, public land managers, and communities, and particularly the farmers and ranchers of America that my committee represents.

Since the gentleman from California (Mr. POMBO) introduced this bill, we have heard groups on both sides of the issue recite statistics with the intent of proving or disproving the effectiveness of the law. Well, I do not believe I can change many minds simply by pointing out that over 99 percent of the species placed on the list are still on it. I would like to make a comparison that may put this dismal success rate in perspective.

If I, for instance, ran a hospital where only one half of 1 percent of the critical patients who checked in recovered, I could hardly claim to be doing a good job. What we need is an endangered species law that not only protects the species, but allows them to recover, to expand and to get off of the endangered species list as a thriving species. This is, however, the record the Endangered Species Act has today compiled, one where only one half of 1 percent of the species have recovered.

Its proponent, nonetheless, continue to claim that that is a success. Along with its glaring shortcoming, the law contains numerous unintended consequences that have proven to be extremely harmful to landowners and local communities. In fact, landowners have come to fear the Endangered Species Act as it has evolved into a giant regulatory menace.

Under the current law, the U.S. Fish and Wildlife Service has the power to halt lawful landowner activities if an endangered species is identified on their property and it is determined their actions would take that species. The landowner and his right to use his land are then simply left to the mercy of the courts.

Private property rights are fundamental rights embodied in the Constitution, and Congress periodically needs to take steps to ensure that government is protecting them, not trampling on them.

In my own committee, the Committee on Agriculture, we have recently examined another example of the infringement of property rights through the use of eminent domain. I commend the gentleman from California (Mr. POMBO) for working with us to address that problem as well.

TESRA achieves a balance between environmental concerns and property rights protection through its compensation and cooperative conservation provisions. Through these provisions, this legislation will fairly compensate landowners when they must forego use of their property and provide varied and unique ways to work with landowners.

The bill also makes other important changes, such as doing away with the Act's emphasis on designating critical habitat by placing emphasis instead on functional recovery plans. These reforms will not only be more effective in achieving species recovery, but do so in a flexible, non-adversarial manner. I believe the protection of endangered species is exceedingly important, however, a law that forces Federal wildlife officials to simply catalog declining species while alienating landowners and discouraging good management practices is a bad thing. Support this legislation.

Failing to improve the lot of species in more than 99 cases out of 100 isn't working. TESRA is a commonsense step towards improving and modernizing the 35-year-old law, and I urge my colleagues to support this important legislation.

Mr. CARDOZA. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. COSTA).

Mr. COSTA. Mr. Chairman, I rise in support of H.R. 3824. This legislation is a reasonable, balanced response that I think will address many of the unintended difficulties and consequences that have arisen since the passage of the original Act.

Over 30 years have passed since that time. That has given us an awful good opportunity to see what sort of insight and experience in terms of what has worked in preserving and protecting endangered species and habitat and what just as importantly has not worked.

California faces numerous challenges in complying with the Endangered Species Act, like many parts of our country. In California, we have 293 threatened and endangered species in the State, the second largest number in the Nation. We also have 11 million acres of designated critical habitat of which 30 percent of it is privately owned. In Kern County, part of which lies in my district, we have more listed species than any other county in the State of California.

To relay an anecdotal story of which there have been many here today, in 1995, we had a Chinese immigrant farmer who, believe it or not, was jailed and prosecuted due to an accidental taking of a species on his land that he had farmed for years. As a matter of fact, his tractor had been confiscated as corroborating evidence.

As a result of that, I and others in the California legislature led a successful effort to change the law to ensure that that would not happen again.

During the committee markup last week, I successfully passed two amendments that clarify local governments' role in participating in the development of habitat conservation planning. As we know, many of the habitat conservation plans have had difficulty in their adoption. The on-the-ground information from our local governments and water agencies and land use agencies is beneficial in the crucial input in the listing process and for trying to provide recovery efforts that are successful.

Mr. Chairman, the Endangered Species Act needs improvement, and I think this bill is a step in that direction. It obviously is a work in progress, but we should understand that the dilemma that we face in America today is that while we all want to protect native plants and species, the dilemma is that our population growth has threatened the habitats for many of those plants and animals, and therein lies the dilemma.

We must continue to work on efforts that I think are included in this legislation, realizing that we are going to have to revisit them in future years.

I applaud the bipartisan efforts of the gentleman from California (Mr. POMBO) and the ranking member, the gentleman from West Virginia (Mr. RAHALL) and their staff for working with all the members of the committee, and the gentleman from California (Mr. CARDOZA) for addressing the problems of the original bill.

I urge my colleagues to vote for its passage.

Mr. Chairman, I would like to enter into a colloquy with the chairman of the Committee on Resources.

My amendment that I referenced a moment ago that was accepted by the committee is meant to assure that States and units of local government have fair input in the listing process for threatened and endangered species. Local governments, we know, often have the best on-the-ground information on the status of communities of plants and animals that are in the area.

This bill would formally recognize the local governments' rights to comment on the listing process and the acquisition of the best available scientific data. In many areas of California, we have water districts that are an extremely active part of the local governmental units that are involved in the species recovery process. The contributions that they make are many.

In order to understand the status and the challenges of the various species that are listed, is it the chairman's understanding that the reference to units of local government in section 8 of the bill would include water districts?

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

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

Mr. POMBO. Yes, that is our intention.

Mr. COSTA. I thank the gentleman very much for that clarification.

Mr. RAHALL. Mr. Chairman, I yield for the purpose of making a unanimous consent request to the gentleman from New Mexico (Mr. UDALL).

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

Mr. UDALL of New Mexico. Mr. Chairman, I urge my colleagues to support the Miller-Boehlert substitute.

Mr. Chairman, I rise today in support of the substitute amendment in opposition to H.R. 3824.

H.R. 3824 is being promoted as a piece of legislation that is good for business. As a senior member of both the Small Business committee and the Resources committee, I think I have an important perspective on this issue.

I would like to draw a parallel between the Endangered Species Act and landmark legislation that has been passed by Congress to protect the health and safety of workers. One could easily and logically argue, if they were so inclined, that child labor laws and occupational safety and health laws were bad for business. But we don't because we intuitively understand that supporting the very foundation of business, the people who do the work, is a long-term economic benefit for society, even though it may cost a few dollars up front.

That goes to the basic fact that practically every adult in America has worked hard at a job for a business or a corporation at some point in his or her life. All of us can easily relate to the problems caused by unfair labor practices and unsafe working conditions. However, very few of us are scientists. We are not a scientifically literate society.

I am not here to say whether that is good or bad but just to offer one explanation why we find it so difficult to grasp that the health of our environment and the continuity of all the pieces in our environment is as important to the health of our society and the strength of our economy as sound labor practices. Legislation that hurts the health of the worker is not

good for business. Laws, like the one being proposed today, that undermine the very foundation of our society's well-being and economic infrastructure, are not good for business.

When we undermine the basic tenets and goals of the Endangered Species Act, we do so at our own peril. Most of us in the House were alive in the early 1960s when Rachel Carson published her book, Silent Spring. The silence of which she spoke caused by the extermination of songbirds, dying because the shells that protected their offspring shattered long before the young were ready to hatch. The eggs shattered and the next generation died because DDT weakened the structure of the eggs. The spring, once filled with the sound of songbirds, was growing ever more silent as DDT began to pervade every corner of our environment.

DDT nearly exterminated our Nation's symbol of freedom, the bald eagle, because it shattered their shells. DDT nearly exterminated the endless flocks of brown pelicans flying low over the ocean's horizon, because it shattered the shells of their young. In my lifetime, I have witnessed the near extinction of these birds. And, thank God, I have witnessed their return because we banned that chemical.

Even though the birds have returned, did we ban DDT too late, because we all know that every one of us harbors residues of DDT in our bodies, that DDT is found in our mother's milk? Or, were the eagle and the pelican sentinels, helping us to right our wrongs just in time, before they disappeared from this planet and our own bodies weakened along with, them.

The Environmental Protection Agency banned DDT a year before the ESA was passed and here we are, 35 years later, about ready to pass a so-called ''ESA reform bill'' that would suspend all Endangered Species Act provisions related to pesticides.

The Endangered Species Act is really about a single species—us, human beings. I am not going to be dramatic and suggest that our species faces extinction. At six and a half billion and growing, I think the human species is going to be around for a good long time. But the existence of today's young people is not the existence I remember from my youth.

Bottled water, mercury poisoning the womb, rates of asthma attacks skyrocketing, beaches closed because E.coli pollutes the water and sickens our children.

The Endangered Species Act is not about saving the tiny silvery minnow that lives in the Rio Grande and it is not about saving the spotted owl that exists in mature forests. It is about alerting us to the fact that our rivers no longer sustain fish and our forest no longer sustains birds. The Endangered Species Act sounds the five-minute buzzer for humanity and says ''Watch out!'' Our fellow creatures are sickening. The animals that share our water, our air, our soils are dying. Something is wrong and we better do something about it before it begins to weaken and sicken us and we have to scramble to pick up the pieces.

Let me close where I began—whether or not a drastic weakening of the Endangered Species Act is good for business. The simple cost/benefit analysis often applied to endangered species protection only reflects what can easily be given a monetary value. This highly selective economic analysis only counts what can be most easily quantified—the cost of timber not cut, the cost of water not sold, the cost of crops not sprayed with pesticide.

These economic analyses do not account for the cost if environmental protections are not put in place—an aquifer that dries up, a hillside that erodes into a river, people stricken with cancer from unsafe pesticides. It is easy to hold up the first balance sheet and say, ''Business will suffer'' in the same way one could say that by prohibiting the labor of children, ''Business will suffer''.

But the cumulative costs of a thousand cuts into the environment that sustains us as humans will be borne by everyone in society, consumers and businesses alike. Without environmental laws, our economy polluted our rivers, darkened our air, paved our wetlands, and drained our rivers. The Endangered Species Act does not take property from private entities; it protects the property, the health and the wealth of all Americans.

Mr. RAHALL. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Michigan (Mr. DINGELL), the dean of the House as well as the father of the Endangered Species Act, the ranking member on the House Committee on Energy and Commerce.

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

Mr. DINGELL. Mr. Chairman, I want to thank my dear friend, the gentleman from West Virginia (Mr. RAHALL), not only for his friendship, but for all the good things he has done on the matter of endangered species and other matters on nature and conservation of natural resources.

I want to pay tribute to my friend, the chairman of the committee. He has behaved in all manners in this connection with this, as he always does, as a complete gentleman. I greatly regret that we were not able to conclude our negotiations in a way which enabled us to together support this legislation. But he has made an honest effort and I want him to know of my appreciation and respect.

Having said that, endangered species is a very important piece of legislation that has worked well. It has served the Nation splendidly well. Large numbers of species which would have been extinct are saved by the fact that this has been in place. And the government now has the tools and guidelines for its behavior.

This is not new legislation. It passed in 1973. The gentleman from Alaska (Mr. YOUNG), the gentleman from Michigan (Mr. CONYERS), the gentleman from Wisconsin (Mr. OBEY), the gentleman from Ohio (Mr. REGULA) and the gentleman from New York (Mr. RANGEL) all supported it. It passed by a heavy bipartisan vote in the House. It passed 92 to nothing in the Senate.

I would note that there are few real differences between the substitute which will be offered shortly and the legislation as it is before us. They are, however, noteworthy. I would note that the success of the Act I do not believe would be furthered by the adoption of the manager's amendment, but it would be by the substitute to be offered.

I would note that there is reason to constantly review the legislative pronouncements of the Congress and to see how it is working and what needs to be changed to make it work better and more fairly. I would note that it is working well and fairly. 56 percent of the top prescription drugs in the world contain natural compounds from plants found in the wild, many of which come from endangered plants. We have saved large numbers of animals who might otherwise have been extinct. I would note that there are also economic benefits. In a sense, we do good by doing well.

I would note that wildlife has created recreation for more than $108 billion in revenue and more than a million jobs in both the public and private sector at the local and national level.

There are problems with this. Science is the core of ESA and should remain so. H.R. 3824 regrettably changes it so that scientific data do not work in the same fashion they do and it creates new layers of bureaucracy. It also creates impacts which are supposedly related to national security, which may be important in terms of the recovery plan but not in terms of whether the animal should be listed or the species should be listed.

Economics are treated in the same way. They become a part of the decisionmaking rather than in the creation of the recovery plan. It is unfortunate that the legislation allows threatened species to dwindle until they become endangered, making the problem of recovery still more difficult.

We can and we should address the real needs of small farmers, landowners, ranchers and others; and we can do this, I believe, without allowing unlimited claims upon the Treasury. This would, I think, entail an intelligent review of this matter, something which the gentleman from California (Mr. POMBO) and I tried to do.

I would note that the President has expressed concerns in his statement of the administrative policy on September 29 and he says, ''Requirements related to species recovery agreements, new statutory deadlines, new conservation and programs for private property owners provide little discretion to Federal agencies and could result in a significant budgetary impact.''

So if you want fiscally and financially responsible legislation, legislation which, in fact, protects the species, which is fair to all, which makes progress and which is close to the area of the legislation but which has broad citizen support, conservation support, and does move the process forward, I would urge my colleagues to support the substitute which will be offered by my colleagues, the gentleman from California (Mr. GEORGE MILLER), and the gentleman from New York (Mr. BOEHLERT). This is the way to go.

We can continue our efforts to try in good faith as has been done by both the

distinguished gentleman from West Virginia (Mr. RAHALL) and the distinguished gentleman from California (Mr. POMBO) to achieve good legislation which will again address the concerns of all while at the same time protecting and conserving species which we have no right to remove from this world.

□ 1345

Mr. POMBO. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee (Mr. DUNCAN).

Mr. DUNCAN. Mr. Chairman, I rise in strong support of the Threatened and Endangered Species Recovery Act, H.R. 3824.

I want to first of all commend the gentleman from California (Chairman POMBO) and the gentleman from California (Mr. CARDOZA) for what is very commonsense, bipartisan legislation; and I want to thank the chairman and his staff for all the long hours and the hard work they have put into this bill.

The latest figures I have show that my home State of Tennessee has one of the highest numbers of listings on the endangered species list. As my colleagues can imagine, this is a very big issue in my State.

I think everyone has read and heard horror stories about ridiculous rulings that have come out over the years, very unfair rulings, under the Endangered Species Act. The burden of compliance under present law is, by far, the hardest for the smallest of our landowners.

It is a simple fact that the existing law hits the hardest on the small- and medium-size farmers and ranchers and landowners, and these are the people least able to fight it.

The wealthiest people and the biggest corporations always seem to be able to get their way. They have enough money, and compliance with the law is either a simple nuisance or just a small cost of doing business. I think, and the fact is, that the way the present law is, it drives out a lot of the competition for the big guys by getting rid of some of the little guys.

I think that anyone who approaches this legislation with a truly open mind would call this a very moderate bill. In fact, in almost any other country in the world, H.R. 3824 would be held as great environmental legislation.

The United States has made greater progress in regard to environmental protection than any other country in the world in the last 30 years. Yet there are some extremist groups that simply cannot seem to admit we have made this progress.

Right now, these groups are telling their members how terrible this legislation is. However, if we look at their mailings, they always tell their members how bad things are, and I think it is probably more related to fund-raising and money than it is to actual concern about endangered species.

If people want to both protect endangered species and not force small farmers or small landowners off their land and force them to sell to big developers or big government, then this is balanced legislation that will accomplish these goals.

Mr. CARDOZA. Mr. Chairman, I yield 6 minutes to the gentleman from California (Mr. BACA).

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

Mr. BACA. Mr. Chairman, I rise in support of H.R. 3824, the Threatened and Endangered Species Recovery Act. I commend the gentleman from California (Chairman POMBO) and the gentleman from California (Mr. CARDOZA) for this legislation.

This legislation modernizes the Endangered Species Act, or ESA, to allow for more scientific review, better conservation plans, and to focus on a recovery process that is based on collaboration and not conflict.

After more than 3 decades, the ESA has failed. This legislation is a bipartisan effort to fix the flawed law.

Less than 1 percent of endangered species have recovered, less than 1 percent. The ESA has only helped 10 of 1,300 species listed under the law. Thirty-nine percent of the species are unknown. Twenty-one percent are declining, and they are declining, and 3 percent are extinct. This law has a 99 percent failure rate.

We need to update. We need to update and modernize the ESA to strengthen the species recovery by turning conflict into cooperation and allowing the use of sound science.

In the Inland Empire, the ESA has prevented or increased costs for freeway interchanges, economic development, and things as simple as trash removal. There are certain areas that are blighted in portions of our communities. It is like walking into a mine. You have got to watch every step that you take because you are afraid you are going to step on an endangered species.

In my district, we have two infamous endangered species. I want to point to one, the Delhi sand flower-loving fly, and of course, the other one is the kangaroo rat.

Look at this fly. If anyone were to see this fly, we would swat it. It is our first, immediate reaction, and we have always heard the buzz at night when we hear a fly. We do not stop to look at it to see if it is an endangered species. Immediately we react; we swat it.

Now, when we look at this fly, and it was buzzing around, I would swat it. What would happen if a cow swatted this fly? Would we fine the cow or the owner? It seems pretty ridiculous, I say.

ESA has many ridiculous examples. As we can see in these posters next to me, the fly costs San Bernardino County Medical Center $3 million to move the hospital about 200 feet when the fly was found in the property. That is about $600,000 per fly. Can my colleagues imagine what it would do to our communities, $600,000 to move a hospital? They reserved a certain area that is full with blight that is overlooking the hospital.

Also in my district, ambulances driving to this emergency room at Arrowhead Medical Center need to slow down so that the endangered flies will not hit their windshield. Can my colleagues imagine someone who needs emergency services cannot get to the hospital, has to slow down because they are afraid this fly might run into the windshield? That is ridiculous. It is about a life that we need to save, not a fly.

It has even been suggested that traffic be slowed down on Interstate 10. Interstate 10 goes into Palm Springs. It is a route that moves traffic back and forth. It is ridiculous. They are saying, all right, this fly only comes out between July and September. So people are suggesting when we travel on that freeway that you should reduce your speed limit from 65 to 25 miles an hour because we might endanger this fly and hit this fly. Can my colleagues imagine the traffic congestion in the area, the impact it would have in that area, on the flow of goods and others that would not be able to be moved? That is ridiculous.

The Inland Empire is indeed species rich, but we have been hit hard by jobs lost by ESA. That is why we need to take into account the human cost.

For example, in the cities of Colton and Fontana, California, a handful of flies, yes, flies are responsible. The city of Fontana alone has spent $10 million in legal fees associated with the ESA and has been forced to put aside $50 million worth of land that has been intended for development. A scrapped commercial center with a supermarket would have generated $5 million in revenue.

Can my colleagues imagine what this would have done to the area, better schools, more police officers, new fire stations, teen centers, paving the streets, fixing our potholes? Yet we have not been able to generate the kind of revenue that we need.

The ESA is related to the development that led the city to default on bonds. Will the Federal Government restore the city's credit rating? No. It has hindered us.

Imagine if endangered species suddenly thrive in the areas flooded by the hurricanes. Do we stop the hurricane construction?

This law affects more people than what we think. Think of the farmers not able to harvest their crops because an endangered species is found in the field.

Local cities have offered land for habitat, changed development plans and tried to partner in that process; but ESA, as written, will not permit that.

I support this legislation, and I think this is good legislation. I ask my colleagues also to support the passage of this.

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

Mr. Chairman, there is probably not a Member of this body that cannot get up and tell some horror story with the current administration of the Endangered Species Act. We all agree there is need for reform and change.

The previous gentleman, while not speaking to the legislation whatsoever, should take note, and he has referred to the cost to a hospital in his district that had to pay some enormous costs, but it is important to realize anytime we allow species to go extinct we lose enormous potential to understand and improve our world and to create medicines that many times can save people's lives. Nowhere is that more evident than in the world of medicine.

I have my chief of staff who has returned from the hospital, thank the Lord to many medicines that have been produced from nearly extinct species. It has made him well and brought him to this floor, and I could go down the list. There are a number of important medicines, including possibly the next effective treatment of cancer, AIDS, or heart disease that can come from species that we are trying to protect and save on this world.

Mr. Chairman, I yield 3½ minutes to the distinguished gentleman from Washington (Mr. DICKS), ranking member on the Subcommittee on Interior, Environment, and Related Agencies of the Committee on Appropriations and a member of my class.

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

Everybody has been talking gloom and doom about the Endangered Species Act. Let me give my colleagues a few success numbers. This comes from the National Wildlife Federation.

According to the National Research Council, the Endangered Species Act has saved hundreds of species from extinction. A study published in the ''Annual Review of Ecological Semantics'' calculated that 172 species would potentially have gone extinct during the period from 1973 to 1998 if Endangered Species Act protection had not been implemented.

According to the Fish and Wildlife Service, 99 percent of the species ever listed under the Endangered Species Act remain on the planet today. That is not a failure. That is an enormous success.

According to the U.S. Fish and Wildlife Service, of the listed species whose condition is known, 68 percent are stable or improving, and 32 percent are declining. The longer a species enjoys the Endangered Species Act protection, the more likely its condition will stabilize or improve.

Now, I just want to say something. Everybody has been saying that H.R. 3824 has been this great effort in terms of collaboration, and I respect that. I respect the way that the chairman and the gentleman from West Virginia (Mr. RAHALL) have approached this thing.

I come from the State of Washington. No part of the country has been more affected by the Endangered Species Act than the State of Washington with the spotted owl listings and the marbled murrelet listings; but I believe that this legislation, H.R. 3824, is a step backwards. It is not going to help protect these species that we want. It will hurt them.

I think that the ESA should be reformed in a responsible manner. In fact, the substitute amendment that I have cosponsored with the gentleman from California (Mr. GEORGE MILLER), the gentleman from New York (Mr. BOEHLERT), and others that will be debated later today embodies those kinds of practical reforms which still provide us the kind of potent tools necessary to prevent extinction of species and to work towards their recovery.

There are some aspects of this bill that I agree with to a point. Over time, many supporters of the ESA have come to question the way in which habitat is designated as critical in order to help species recovery. While it is vitally important that habitat be set aside, these critical habitat designations have led to much controversy.

The substitute amendment also eliminates the critical habitat designation, but replaces it with the requirement that the Interior Secretary identify specific areas that are necessary for the conservation of species and then enforce these designations.

In addition, the substitute amendment will require that Federal land be considered first for designation as habitat necessary for a species' survival and recovery before private landowners are burdened.

Another provision of this bill is one offered by my friend from Oregon, but the idea that we are not any longer going to have EPA consult on pesticides is a tragic mistake. This is enough to defeat this bill in its own right. This is a terrible mistake. Sixty-seven million birds each year die because of pesticides; and if we let this pesticide provision be enacted, it will be the most damaging thing I can think of for birds and other wildlife.

□ 1400

Mr. POMBO. Mr. Chairman, I yield 1 minute to the gentleman from New Mexico (Mr. PEARCE).

Mr. PEARCE. Mr. Chairman, the Endangered Species Act is broken and needs to be fixed. Those are not my words, those are the words of a city counselor from Santa Barbara, California. In a hearing we had on endangered species last year, she described California as being the greenest State, Santa Barbara as being the greenest of the cities in California, and she as being the greenest of the green. She said that the Endangered Species Act is blocking people from making additions onto their homes, it is keeping the beach closed, it is stopping development in their town, and they are tired of it. They either want it eliminated or fixed.

Elimination of the Act is too extreme. The gentleman from California (Mr. POMBO), our chairman, has taken a very good stance in reforming it. In New Mexico, we have the silvery minnow. In order to keep the flow in the Rio Grand River at the level that the biologists said we had to have, we had to release storage of water that had been building up for 50 years in four different reservoirs. And storage for water like that in New Mexico is not easy to get. When we empty those, we cannot maintain the flow. So one of the most important provisions in this bill is that sound science must be used for any decision.

We also are affecting the outcome for our private property owners, and so I thank the gentleman for his hard work on this and I support the bill.

Mr. CARDOZA. Mr. Chairman, I yield 1½ minutes to the gentleman from the great State of Oklahoma (Mr. BOREN).

Mr. BOREN. Mr. Chairman, I rise today in support of this important very important reform legislation because it is an issue that is very important to me and many of my constituents in my district.

As we all know, the challenge we face in reforming the ESA is to create a balance between the important goal of conservation and preservation of our Nation's species and making sure property owners, businesses, workers and communities do not suffer unnecessarily for these efforts. Under the current structure of the Endangered Species Act, these two goals have unfortunately been at odds and have been a barrier to important economic development.

By reforming the current law, we have the opportunity to craft balanced legislation that brings all stakeholders together in common interest. I feel strongly that this legislation achieves that balance and, therefore, should be approved.

A community in my district seeking this balance is Durant, Oklahoma, which is in part of the ''historic range'' of the American burying beetle. The leaders of Durant have worked hard and have had success in bringing business to their area of far southeastern Oklahoma, but each year, the construction of new sites for these businesses is brought to a screeching halt, always looking for the burying beetle, but no presence of the beetle has been found for a number over years. This disruption costs the community time, money, and the potential for future job growth.

There must be a better way to balance the needs of the species and the needs of the communities. This bill provides important reform. It does not gut the law, but actually continues to provide important protections for endangered species which we all care about deeply. This reform should improve the recovery process and provide real success in saving our national treasures.

I commend the hard work of those who have brought us here today.

Mr. RAHALL. Mr. Chairman, it is my pleasure to yield 3 minutes to the distinguished gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise in opposition to the Threatening Endangered Species From Recovering Act.

This legislation, as many of us know, will do nothing to improve our ability to help species recover. As a matter of fact, this legislation will repeal all Endangered Species Act provisions that protect threatened and endangered plants and wildlife from the harmful impact of pesticides.

Let us focus on this for a moment. Every schoolchild in America is aware that pesticides are threatening to birds. Our own national symbol, the bald eagle, is threatened with the provisions of this bill that would repeal the pesticides provisions that currently exist and which help protect endangered species. We would not spray pesticides on a bald eagle, would we? And if we would not do that, why would we vote for this bill? Pesticides have played a large part in the decline of many species, including the bald eagle.

The bald eagle is the symbol of our national unity. There is something about the Endangered Species Act which represents something even greater than talking about plants and wildlife. There is a recognition that plants and wildlife and human beings are all part of the same interconnected process; that we are interdependent; that we are all one. To act as though plants and wildlife and insects are just here for our use, for our commercialization, for our disposal actually rejects our own humanity. There are deeper questions here about who we are as human beings that are reflected in legislation like this.

I could talk for a while about how this bill is going to provide giveaways to developers at the expense of wildlife and endangered species. I could talk about how it is going to require the government to use taxpayer dollars to pay big developers to not violate the Endangered Species Act. I could talk about how this Threatening Endangered Species From Recovery Act would call for a tentative schedule for developing recovery plans for species that are currently protected. I could talk about all that, but I want to stress that what we are really doing here in voting for this bill is rejecting the whole idea of interdependence and interconnection; rejecting the idea of a bald eagle which stands for national unity and that we are all together.

Mr. POMBO. Mr. Chairman, I yield 1 minute to the gentleman from Arizona (Mr. FLAKE).

Mr. FLAKE. Mr. Chairman, I thank the gentleman for yielding me this time, and I appreciate the chairman's efforts to reach across the aisle and produce a true bipartisan bill, and I thank the gentleman from California (Mr. CARDOZA) for working on this.

If any of my colleagues have served on the Committee on Resources, as I have, you know that this is a truly bipartisan bill. The gentleman from West Virginia mentioned that everybody can find an example of how the current ESA is out of whack, and he uses that as an excuse not to move forward with a bill that reforms it. I would say that that is precisely the reason we need to reform it, because everybody can find not just one but two or three or a dozen examples in their own State of how the current law is not leading to recovery, but it is, rather, tying people up and making individuals and organizations simply pay for a regulation rather than recovery.

The purpose of this bill is to lead to the recovery of species, and that is what this is all about. My own State of Arizona has had its own issues with the Endangered Species Act. Many times, those who manage water resources have been tied up with regulation that has required them to spend money on that rather than the recovery of species. This will make it far easier to do that.

This bill will also mean a deal between a landowner and a Federal agency is a deal. So for many reasons, I would support the bill.

Mr. CARDOZA. Mr. Chairman, I yield 1½ minutes to the gentlewoman from South Dakota (Ms. HERSETH).

Ms. HERSETH. Mr. Chairman, I thank the gentleman from California for yielding me this time, and I wish to engage the chairman of the Committee on Resources in a colloquy.

For many years, Mr. Chairman, the U.S. Army Corps of Engineers has engaged in river management practices that have harmed several species of native wildlife that live in and near the Missouri River and undermine the economic livelihood of many communities along the upper Missouri River basin. My State, and others in the upper reaches of the basin, have repeatedly endeavored to influence the decisions of the Corps as it makes critical river management decisions.

The interagency consultation provisions found in the current law are one of the few tools at our disposal. So I am concerned that the alternative procedures defined but not specified in section 12 of the Threatened and Endangered Species Act would create a way for the Corps to disregard the consultation requirement, and I want to make sure the alternative procedures provision is not designed as a way to eliminate consultation between Federal agencies.

Therefore, under the new bill, would the Corps be required to manage the Missouri River in a manner that meets current standards under the ESA?

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

Ms. HERSETH. I yield to the gentleman from California.

Mr. POMBO. Yes, they would.

Ms. HERSETH. Mr. Chairman, I thank the gentleman for recognizing my concern and clarifying the intent of the bill. I am satisfied the bill will not weaken the interagency consultation requirement, and I appreciate your consideration.

Mr. RAHALL. Mr. Chairman, I yield 3 minutes to the gentleman from Washington (Mr. INSLEE), a very valued member of our Committee on Resources.

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

Mr. INSLEE. Mr. Chairman, I think it is appropriate to refer to the first Endangered Species Act in Genesis. ''Bring out every kind of living creature that is with you, the birds, the animals, and all the creatures that move along the ground, so that they can multiply on the earth and be fruitful and increase in number upon it.''

Are we acting in the spirit of Noah when we purport to vote, some may vote, for a bill that would prevent protecting the bald eagle from pesticides, when DDT almost removed it from the treasure-trove of American icons? Are we acting in the spirit of Genesis? I think Americans think we are not. When we act to remove any meaningful enforcement provisions to protect the habitat, are we acting in the spirit of Genesis? Americans think not.

What is a fish without a river? What is a bird without a tree to nest in? What is an Endangered Species Act without any enforcement mechanism to ensure their habitat is protected? It is nothing. This is not a modernization of the Act, this is a euthanization of the Act, and I will tell you why.

The underlying bill says that we are going to have these maps of habitat that will be developed, and that is a wonderful thing. And under the bill, as written, the maps will hang on the walls of these agencies in beautiful pink and blue, and the Cub Scouts and the Girl Scout Troops can come through and look at the beautiful maps. But it has one missing thing. If we pass this underlying bill, we would have removed any single legal enforcement mechanism that those maps had whatsoever. The bipartisan amendment will say that those maps have some degree of teeth.

This underlying bill is a chimera. It is a total falsehood to say it does the first thing for habitat because there is no enforcement mechanism for those maps.

I want to tell my colleagues of a woman who was in my office the other day. She wants habitat protection so she can see those salmon. And just to make sure no one thinks this is just some esoteric thing, her name is Gail and she lives in Miller Bay in Washington State, Kitsap County. She told me about the thrill of seeing the salmon going up the stream on Miller Bay, and they do that because we have an enforceable mechanism to protect habitat. She knows that if we pass this bill, we will remove the ability to protect the streams. We remove the enforcements mechanisms.

Mr. Chairman, that is why we need to do this substitute, which has a better way of identifying habitat in the recovery process so we do not have this frustration with the landowners, so we do not waste 3 years just bothering landowners and not recovering species, but we have a mechanism to get this job done.

I want to reiterate what the gentleman from Washington (Mr. DICKS) suggested. To suggest that an Act that saves 99 percent of the species from extinction is a failure is not a way to keep score. If you want to know how to do more, let us make sure that the executive branch enforces this law. Clinton listed 500. The first Bush listed 250. This administration has done zero without a court order.

Let us pass the substitute bill and reject this underlying bill. Honor creatures, honor the taxpayer, honor yourself.

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

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

Mr. RAHALL. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. FARR).

Mr. FARR. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise as a Member probably more affected by this law than anybody else in the United States Congress. I probably represent more critical habitat in the coastal counties of Monterey Bay than anybody. That is the Big Sur, Carmel, Pebble Beach, Santa Cruz region.

That critical habitat has made us a lot of money on what is watchable wildlife. Watchable wildlife is the largest business, fastest-growing business in the United States. Of all the sports in this country, watchable wildlife exceeds them all. This bill undermines the greatest economic asset we have, which is our natural things by creating a new issue on takings.

You argue the bill is broken because the administration has not been able to administer it.

□ 1415

Well, it is not the bill that is at fault; it is the United States Congress and the President of the United States that are at fault.

I am on the Committee on Appropriations, and in 2003 the Fish and Wildlife Service said it needed approximately $153 million to address the critical backlog of listings of critical habitat; yet the President only asked for $18 million. This is the way to kill an organization. You do not fund it, and say, look, the law does not work, you have a backlog.

So let us take the law. Every city councilmember, every city supervisor in the United States ought to wake up and look at this law because now they give full development rights under this law. If you do not like the way the law is, you have trees in your backyard that the government says, the community says you ought to preserve, you do not have to worry about that now because you can say that is a taking.

Pebble Beach, cut all of your cypress trees and pine trees, which are the Monterey cypress and the Monterey pines, because now instead of beautiful scenery, you can build hotels all over that land. And if they do not allow you to do that because of the trees, the government will pay you.

Mr. Speaker, guess what, the government has no money. It cannot even pay the bureaucrats that are responsible for carrying out the law. This bill is a gun to the head. This bill says if you do not grant that development, by God, government, you have to pay it. The lawyers say, government, you have no money, you better grant the request.

This is a full development rights. It is an attack on America's greatest heritage. It endangers wild and scenic species.

Mr. POMBO. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. BRADY).

Mr. BRADY of Texas. Mr. Chairman, in Washington everything looks perfect on paper and people hate to admit they made a mistake; but the truth of the matter is how it works in real life is completely different, and we have a responsibility to make those changes.

I strongly support this recovery act and thank the gentleman from California (Mr. POMBO) for his leadership and the gentleman from California (Mr. CARDOZA) for his hard work. My east Texas district, which was hit very hard by Hurricane Rita, is jam packed with trees. The piney woods are our heritage. They are our economy; and they provide habitat for the red cockheaded woodpecker, among other endangered species.

But for decades, responsible landowners have been afraid that the Federal Government would swoop in and take their livelihood away for the sake of this bird due simply to the outdated and unsubstantiated burdens of the Endangered Species Act.

America's farmers and ranchers and private property owners in east Texas have spent long enough fearing the Federal Government. Unfortunately, current law has created incentives for landowners to destroy species habitat to rid their properties of liability. I strongly support this measure.

Mr. CARDOZA. Mr. Chairman, I yield myself 1 minute to engage in a colloquy with the gentleman from California (Mr. POMBO).

Mr. Chairman, I believe it is critical for us to make sure we do not change the regulatory landscape on property owners regulated under existing law. These individuals, our constituents, are committed to doing what the Federal Government asked them to do in order to secure authorization to proceed with various activities. We should not require those same landowners to renegotiate what they have already agreed to under the new rules of this bill after it is enacted.

Based on that premise, I believe the Threatened and Endangered Species Recovery Act should include a grandfather clause to cover any ESA permits or approvals issued prior to the date of enactment of this bill, not just habitat conservation plans.

I would inquire, is that the intent of the gentleman from California (Mr. POMBO)?

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

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

Mr. POMBO. Mr. Chairman, that is the intent, yes, sir.

Mr. RAHALL. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin (Mr. KIND), a valued member of the Committee on Resources.

Mr. KIND. Mr. Chairman, I appreciate the approach that the committee is taking in trying to revamp and revise the Endangered Species Act. This has been a vitally important and successful act throughout recent decades. And while there is wide agreement here on the House floor that it should be amended and tweaked and improved on in light of past experience and modern times, we need to do it responsibly; and I believe that responsible approach is better reflected in the substitute that is being offered here today.

Unlike some in this Chamber who believe that the Endangered Species Act has been an unmitigated failure, there are countless success stories around the country. In my home State of Wisconsin, an example of how well it has worked, working with local officials and the stakeholders involved, the Higgins eye mussel has come back in the Mississippi River, which acts as a great filtration system in the river basin. The Karner blue butterfly, on the verge of extinction in Wisconsin, due to the Endangered Species Act and the recovery plan that was in place, is making a healthy comeback.

The whooping crane is making a strong comeback in the Necedah Wildlife Refuge, as has the granddaddy of them all, which has been referenced here today, the American bald eagle. If Members would like to see some bald eagles, come to western Wisconsin along the Mississippi during the spring and fall ice flows, and you will see literally thousands of them. There are new nests that are going up in habitat where they had never been found before. They are on the verge of being delisted because of their success story. EPA identified the adverse effects of DDT, Congress took action, and the bald eagle is resurging today.

And the grizzly bear that is about to be delisted in Yellowstone and portions of Montana from the threatened species list, I can personally attest to the strength of their comeback, having just been in Glacier Park in August and coming within 20 yards of a big grizzly bear and her two cubs. Fortunately, I was able to retreat, or I would have been a threatened or endangered species during that time.

The act has worked, and the point is there is a responsible approach that recognizes the bureaucratic red tape that we streamline, working with private property owners and also putting in place a strong recovery plan for species that makes more sense. That is the substitute. I encourage my colleagues to support the substitute.

Mr. POMBO. Mr. Chairman, I yield 1½ minutes to the gentleman from Nebraska (Mr. OSBORNE).

Mr. OSBORNE. Mr. Chairman, I serve a very rural district, a lot of landowners. Currently, a landowner with an endangered species on his land often sees the species as a threat to his survival. That is not good for the species, and it is certainly not good for the landowner. It is not working. It is largely adversarial. H.R. 3824 provides incentives for landowners to preserve endangered species, and this will help the species, and it will help people as well.

In 1978, 50 miles of the Central Platte River in Nebraska was designated as critical habitat for whooping cranes. Only 3 to 4 percent of the whooping cranes visit the Platte River annually. The great majority of whooping cranes never see the Platte River, never visit it at all; and so many have questioned this designation because this designation has led to a cooperative agreement between Nebraska, Colorado, and Wyoming involving thousands of acres of lands, hundreds of thousands of feet of water to support critical habitat; and it is still not complete after 8 years of spending millions of dollars.

So we have case after case after case like this where this thing simply is not working well. Hopefully, applying the best available current science required by this legislation will improve this process. I think it will. I thank the gentleman from California (Chairman POMBO) for his efforts, as well as the gentleman from California (Mr. CARDOZA), and ask support for H.R. 3824.

Mr. RAHALL. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland (Mr. GILCHREST).

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

I, too, come from a rural area. The two major industries in my district are agriculture and fishing. So we know the landscape and people cooperate. The present ESA, maybe it is because we are on the east coast, the present ESA bill is working fine. I know we need to tweak it because it does not work the same way all over the place, but I would urge my colleagues to support the substitute. Here are some reasons why:

In the substitute, there are specific criteria for science laid out. Members want good science; the methods, procedures, and practices are laid out. What species should be determined endangered, there are five criteria laid out on page 4 of the substitute. Members should review all species that are designated every 5 years.

We have repealed the critical habitat designations, but we have replaced it with recovery plans found on page 20 of the substitute. It has time frames and objective, measurable criteria. It has a very specific description of where that species should be recovered, and the emphasis of where that species should be recovered is not private land; it is public land. The emphasis is on public land; but whenever you go on private land, there should be some restitution, some sharing of Federal dollars with those private landowners; and 10 percent of the appropriated amount on an annual basis of this substitute will go for that very specific purpose.

What if livestock are endangered or threatened by a reintroduced species? That is taken care of. Landowners are going to be reimbursed for that lost livestock.

What about national security? Take a look at the substitute. There is a very specific exemption. Page 43 of the substitute, there is a national security exemption.

I urge my colleagues to vote for a specific, balanced ESA bill. Vote for the substitute.

Mr. RAHALL. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Chairman, I thank the ranking member, my friend, for yielding me this time.

''Shortsighted men, in their greed and selfishness will, if permitted, rob our country of half its charm by the reckless extermination of all useful and beautiful wild things.'' So said Republican President Theodore Roosevelt almost 100 years ago, and how relevant his remarks are today.

If we cannot find a way to live in harmony and conserve our natural resources in a sustainable way, we humans may, too, be doomed to extinction. The Endangered Species Act is a litmus test on the degree to which we are willing to conserve our livable environment.

To date this act has succeeded. Its success rate is 99 percent. Only 7 out of 1,200 species, according to Fish and Wildlife Service, have become extinct, and they became extinct because of their status before they were listed.

There are problems with the Act that need to be addressed, but many of the changes embodied in this bill are not designed to fix the problems. They are designed to eviscerate the law. The proposal before us today will gut the law by making any recovery plan unenforceable and by creating a new compensation program for those who own land that may host a threatened or endangered species.

We are a Nation of laws and constitutional rights, but where in the Constitution does it say property rights are an immutable and an open-ended entitlement?

Where would we be as a Nation if the law did not allow reasonable government regulations of private property without payment of compensation if undertaken for the public good? That kind of regulation occurs every day in every State in every locality throughout the country. It occurs as a result of practically every regulatory statute we pass. It is a long-standing principle of the jurisprudence of our courts. But this bill turns that principle on its head, and in so doing it creates a very dangerous precedent that this body should not knowingly adopt.

Section 13 of the bill establishes a new program of conservation aid; and under this program the government must provide compensation to landowners whenever an ESA restriction prevents a particular use of property, regardless of the fact that other uses of the property remain and those uses are very valuable.

This new aid program, therefore, requires the payment of compensation to landowners even though no governmental taking of their property has occurred. And rather than compensation being required where a restriction essentially strips property of all of its valuable uses, the standard under the takings clause, which exists today, this bill requires compensation whenever a restriction prevents a single use of property.

□ 1430

It is a standard for compensation that goes far beyond the standard imposed under the Constitution's ''taking'' clause, and it does not exist in any other Federal statute. If enacted, this bill will set a very dangerous precedent that could lead to the insertion of similar provisions in other environmental and regulatory statutes. It has to be rejected.

Mr. Chairman, as a member of the Interior, Environment, and Related Agencies Subcommittee of the Committee on Appropriations, I know that there are some problems with the implementation of this Act. The current ''critical habitat'' designation needs to be revised and should be established later in the process during the development of species recovery plans.

In that regard, the approach taken by the substitute put together by the gentleman from Michigan (Mr. DINGELL) and the gentleman from Washington (Mr. DICKS) and others is the right way to go and should be adopted.

Mr. Chairman, Federal land belongs to all of us. The Endangered Species Act is a vehicle through which we can conserve our land and balance the needs of all against the short-term and destructive interests of the few. I urge my colleagues to oppose the Threatened and Endangered Species Recovery Act, but strongly support the substitute.

The CHAIRMAN. The Committee will rise informally.

The Speaker pro tempore (Mr. PEARCE) assumed the Chair.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

THREATENED AND ENDANGERED SPECIES RECOVERY ACT OF 2005

The Committee resumed its sitting.

Mr. POMBO. Mr. Chairman, I yield 2 minutes to the gentlewoman from Wyoming (Mrs. CUBIN).

Mrs. CUBIN. Mr. Chairman, would the chairman of the Committee on Resources agree to enter into a colloquy?

Mr. POMBO. Yes, Mr. Chairman.

Mrs. CUBIN. Mr. Chairman, it has come to my attention that certain Federal agencies with permitting, licensing, and leasing authority are requiring some of my constituents to agree to stipulations in their coal leases that go beyond protecting threatened or endangered species. For example, before the Bureau of Land Management will issue a lease, they require the lessee to agree to potential modifications in the lease. These modifications can be based not only on species that are threatened or endangered, but also on species that are proposed to be listed, candidate species, and distinct population segments.

Section 10 of the bill authorizes cooperative agreements between Federal agencies and States that cover candidate species and any other species that the State and the Secretary agree is at risk of being listed as an endangered or threatened species. Is the intent of the legislation to broaden the scope of the ESA by allowing the government to regulate species that are not yet threatened or endangered by imposing new potential regulatory requirements, withholding of permits and licenses, or requiring special stipulations on Federal leases?

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

Mrs. CUBIN. I yield to the gentleman from California.

Mr. POMBO. No, Mr. Chairman. It is not in there.

Mrs. CUBIN. Mr. Chairman, reclaiming my time, I thank the chairman for his answer. That was the way that I read the bill too, and I wanted the congressional intent to be on the record.

Mr. RAHALL. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, Psalms 104, verses 25, 30: ''In wisdom You made them all, the earth is full of Your creatures. There is the sea, vast and spacious, teeming with creatures beyond number, living things both large and small . . . When You send Your spirit, they are created and You renew the earth.''

Such is the appropriate Biblical quote, I say to my colleagues, that should guide our deliberations today on this particular legislation.

Species keep people alive. In the earlier comment, I stated that there are numerous Members of this body, perhaps to the person, who could tell of horror stories involved with the administration of the current Endangered Species Act. And while some of those stories are probably valid and have their good points, the current regime, as I also previously stated, has not been working. It has not been working because it has not been adequately funded nor administered by the current administration. Funding is a problem. Funding perhaps would have solved many of these horror stories to which Members of this body refer.

But this particular legislation, as we have heard throughout the debate on this general debate and we will hear more during the amendment process, is an expensive proposition. If we could not fund the regime that exists today that implements the ESA, how, I ask, are we going to fund an even more expensive regime that is set up by the pending legislation? A compensation program to property owners that truly is going to cause us to go further into deficit spending. The legislation would increase direct spending by requiring the Secretary of the Interior to pay aid to private landowners who are prohibited from using their property under certain circumstances. That means money, I say to my colleagues. That means appropriations from this body's Committee on Appropriations, at a time when we are finding tremendous costs being imposed upon the taxpayers that was unexpected 2 or 3 months ago.

At a time when we are already cutting Bureau of Reclamation projects, western water projects, Indian programs, our national parks. Indeed, there are some in this administration that would sell our national parks and other public lands in order to address our ever-mounting deficit. This legislation will only exacerbate our deficit problems.

And as I have said and referred to in earlier responses, why should we care about critters? Those who criticize this Act refer to the supporters of the Act as being more concerned about critters than human beings. I will tell them why we should be concerned about critters, why we should care about the Endangered Species Act.

Nowhere should that care be more evident than in the world of medicine. Anytime we allow a species to go extinct, we lose enormous potential to understand and improve our world. Nearly 50 percent of all our medical prescriptions, for example, dispensed annually in our country, are derived from nature or modified to mimic natural substances. Yet we have only investigated about 2 percent of the more than 250,000 known plant species for their possible medical breakthroughs. The extinction of a single species may mean the loss of the next effective treatment for cancer, for AIDS, or for heart disease. Mold fungus led to the development of Penicillin over 50 years ago. Mold fungus, it has saved countless lives in recent generations, and it continues to do so every day. Morphine and codeine, both made from poppy plants, are among the most widely used medications in the world today. Venoms from snakes have led to important medications, including an important drug to control blood pressure.

Even insects have their value in medicine. We now know that the genes that turn out to form a heart in a fruit fly are actually the same genes that form hearts in higher animals and people.

Again, quoting from the Bible, from Ecclesiastes: ''Man's fate is like that of the animals; the same fate awaits them both: As one dies, so dies the other. All have the same breath.''

Mr. Chairman, at the appropriate time, I will be speaking on the manager's amendment and I will also be speaking in support of the substitute amendment that will be offered. As I said in my opening comments, I introduced these negotiations in good faith with the gentleman from California (Mr. POMBO), my chairman, because I thought there was not adequate funding to enforce the current endangered species law, and those negotiations were conducted in good faith, and we came quite close, and he will say probably that 90 percent of the current bill is a bill upon which I agree.

But at the same time, in the manager's amendment that will be coming up, there were changes made in literally the last minute that came very close to violating the good-faith negotiations that were ongoing on this legislation. I will speak to that at the proper time.

But I will say at this point that this legislation needs to be defeated, the substitute that will be offered needs to be supported, and we need to look very seriously at how we can enforce better the endangered species laws on the books today rather than the overhaul that exists in the pending legislation, and I urge defeat of the legislation.

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

Mr. POMBO. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri (Mr. GRAVES).

Mr. GRAVES. Mr. Chairman, I thank the chairman for yielding me this time to speak on an issue that is very important to me and my constituents.

The Endangered Species Act plays a prominent role in my State of Missouri with over 25 endangered and threatened species located within the borders and nine in my district.

Mr. Chairman, the ESA is broken and needs to be fixed. Over the last 30 years, less than 1 percent of all listed species have been removed, and most of them have been removed because of poor data. I thought the intent of the ESA was to recover species and not leave them on the list indefinitely. Also, landowners seem to be getting cheated when species are identified on their property resulting in lower property values, less production and limited use. These unintended adverse impacts have resulted in a law that is

hurting landowners while not recovering any species.

This is why I introduced H.R. 3300, the Endangered Species Recovery Act. I want to thank the chairman and staff for working with me to develop and incorporate this bill into the overall ESA bill. The language in section 10 of the bill creates ''species recovery agreements.'' Basically, it is an all-inclusive incentive program that will compensate landowners for their conservation efforts. It is my hope that this provision will foster a better working relationship with landowners and the Federal Government resulting in recovery of more species. My underlying goal is to protect landowners while keeping intact the spirit of the ESA.

As part of the farming community, I have heard stories of farmers afraid to report an endangered species on their land because of the implication it would have on their property and their farming operation. ''Shoot, shovel, and shut up'' was often the case when a species was identified on their property. My point is that the ESA was more of a burden on landowners, and without the cooperation of landowners, species recovery, I do not think, will ever be successful.

Another reason why I chose to get involved in this debate is because of the implication this Act has on the management of the Missouri River. The Missouri River is a vital waterway for Midwest farmers, providing cheaper and more efficient transportation for their grain. The Flood Control Act of 1944 authorized the Army Corps of Engineers to maintain flood control and navigation along the river. Then came the Endangered Species Act and this all changed. The ESA seems to supersede the Flood Control Act, and now transportation along the river is unreliable. Ultimately, I would like to see the provisions in this bill fix the situation so navigation becomes more reliable.

Again, I commend the chairman on his efforts and look forward to working with him on this bill and getting it passed this afternoon.

Mr. CARDOZA. Mr. Chairman, I yield myself the balance of my time.

I want to conclude by saying I thank the gentleman from West Virginia (Mr. RAHALL) for his offering of working on this piece of legislation, and we do so in the spirit of cooperation.

I also have to say, though, that in this Chamber where we have seen lofty rhetoric for a number of years, I personally having witnessed it for 26 since I was first an intern here, I have frankly never seen the rhetoric not coincide with the reality more than in this case oftentimes.

This bill does not eviscerate the Endangered Species Act. This bill does several positive things. It establishes recovery plans based on biology. It establishes recovery habitat based on those recovery plans. It encourages landowners to cooperate with biologists in the Fish and Wildlife Service. It lets landowners get answers to their biological questions, and it compensates landowners whose land is confiscated under the original Endangered Species Act.

I ask Members for their ''aye'' vote.

Mr. POMBO. Mr. Chairman, I yield the balance of my time to the gentleman from Oregon (Mr. WALDEN).

Mr. WALDEN of Oregon. Mr. Chairman, we heard about Theodore Roosevelt. Indeed, 100 years ago this year, Theodore Roosevelt created the Great Forest Reserves. He also created the Klamath Wildlife Refuge. He created the forest reserves for both the future home building needs of the country and for water, if we read his statements, and, of course, for nature as well.

□ 1445

He created the wildlife refuge in the Klamath Basin to ensure that we would have healthy wildlife populations for generations to come; and, indeed, the wildlife refuge is home to the greatest concentration of bald eagles in the United States, in the lower 48.

Ninety-six years after he created that refuge, this Federal Government made a decision to shut the water off to 1,200 farm families in that basin based on the Endangered Species Act and interpreted by the government scientists without peer review, without peer review. When the National Academy of Sciences reviewed the decisions, they said the agency made mistakes in the outcome under the Endangered Species Act; and further they went on to say that those decisions put in jeopardy potentially those very species, the sucker fish in the Upper Klamath Lake and the Coho Salmon in the Klamath River. It potentially could have damaged both of those.

This act changes that. This act changes that, because we put into law for the first time really clear criteria and guidance about science. And unlike the substitute that will be offered soon, we allow a full public process, a 1-year timeline for the Secretary to further define the criteria of the science. We do not define it in the statute; we give guidance and then there will be a full public process. We require empirical data and peer review and the Secretary to have that opportunity, and peer review is certainly important. The other alternative does not do that. It sets it in standard. It is politicians writing it. Science is critical.

Let me talk about the private property rights. I believe in them. When the government says it is going to build a highway across your property, the Constitution says the government has to pay you for it. The ESA is the environmental highway across your property.

But it does not open the door as a blank check to developers to go out and pick the most sensitive wildlife habitat area in the country and say, I am going to build a $50 million hotel and casino here. Not at all.

Let us go to the law that we are proposing. Page 15, open your manuals, sub (C): ''The foregone use would be lawful under State and local law and the property owner has demonstrated the property owner has the means to undertake the proposed use.''

It eliminates the speculative things that people were concerned about. We heard that. This is an improvement. This clearly says that.

And there is no double-dipping. This section says you cannot come back and get a second bite at the same apple, so you have to follow State and local zoning ordinances and laws, you have to prove you are financially capable of undertaking the activity, and the government has to give you an answer when you propose to do something on your private, private, property here.

That is one of the great things about this country. We can talk about the bald eagle, and I am a big fan of them, but one of the underpinnings of our great democracy is our private property rights. In the case of the Klamath Basin, in many respects they were taken away when their water was cut off and 1,200 farm families were left destitute.

I believe in recovery, I believe in species, and I think what we are changing in this bill will build new partnerships that will bring landowners and the government together like never before, that respects the rights of private owners of property, and will actually result in increased recovery of species and habitat.

Mr. Chairman, I urge approval of the underlying bill.

Mr. ADERHOLT. Mr. Chairman, I ask unanimous consent to revise and extend my remarks.

Mr. Chairman, the Endangered Species Act is a well-intentioned law that has failed in its implementation. Originally billed as a way to recover and rehabilitate endangered species, it has failed at that goal.

As it has been pointed out, less than 1 percent of species listed have recovered in the entire history of the act. Almost 3 times that many still listed are believed to already be extinct. Many species that were listed in error, yet because of flaws in the act, they are still listed. This bill today will greatly improve the recovery process so that species may be restored and removed from the list.

Mr. Chairman, one of those species is the Alabama sturgeon. It was listed years ago even though it was never proven to be genetically distinct from any other sturgeon.

It's simply a regular sturgeon living in Alabama. The economic cost of its listing has been estimated at $1.5 billion.

Mr. Chairman, I and the rest of the Alabama delegation worked directly with the gentleman from California to ensure that the bill is helpful to landowners in Alabama and Southeast. The Endangered Species Act today creates an adversarial relationship between landowners and the government.

Landowners have little incentive to conserve species on their property. However, this bill will create cooperative conservation agreements between landowners and the government. It will also provide long overdue compensation to landowners whose property has been "taken" by the Endangered Species Act.

I encourage all of my colleagues to support this bill.

Mr. MENENDEZ. Mr. Chairman, I rise today in strong opposition to this bill, H.R. 3824, which would substantially weaken the essential protections we have in place for endangered plants and animals. Since being signed into law over 30 years ago, the Endangered Species Act has protected over twelve hundred species from extinction. Only nine species listed under the act have gone extinct, and five of them were later determined to be extinct by the time they were listed. Meanwhile, thanks largely to the act's protections, we have fully recovered such species as the American alligator, grey whale, and peregrine falcon, and stabilized the populations of bald eagles, sea turtles, manatees, and hundreds more. And some species, such as the California condor and red wolf, would probably be extinct without the protections of the act.

From looking at the record of the Endangered Species Act, I would say that it has been a success. A study by the Congressional Research Service has shown that 41 percent of listed species have improved their status after being listed. The act certainly has not brought every endangered or threatened species to full recovery, but many of these have only been listed a few years. Rebuilding a species takes time. The U.S. Fish and Wildlife Service reported that only 4 percent of species listed for less than 5 years have recovered by any appreciable amount. But that number jumps to 36 percent for species listed for over 10 years. The fact that so many species have yet to be fully recovered is a call for more endangered species protections, not less.

And yet less protection is exactly what this bill is giving us. It eliminates the designation of critical habitat, which is one of the most important provisions in the Endangered Species Act. A recent study showed that species with defined critical habitat are far more likely to be recovering than species without such habitat. The bill includes a number of other unfortunate provisions, but perhaps none are more unfortunate, or more mind-boggling, than the proposal to pay off developers for what they should be doing anyway—obeying the law. This bill says that if a developer wants to build something but can't do it because of the Endangered Species Act, the government must pay them for the loss of the income they would have received from the development, even when the development is economically unfeasible.

Think about this for a second. First of all, we are saying that the government will pay you for obeying the law. A power plant that doesn't install pollution control devices will be more profitable than one that does, but we don't pay off the cleaner power plant for obeying the Clean Air Act. And we certainly don't pay someone for not robbing a bank, even though it would be very profitable for them to do so. This has nothing to do with the government providing compensation for taking private land. This is about developers being encouraged to come up with incredible schemes, and then getting paid by the American taxpayer to not build them, because doing so would drive an endangered species to extinction. This is insane, and would ensure that all the money in the endangered species program would go to developer payoffs, and not species protection.

There are a number of reasons why we need to focus our resources on protecting endangered species. Wildlife means millions of dollars to local economies, both through tourism and outdoor recreation. Just in two counties in southern New Jersey alone, red knot watchers spend over $4 million a year. Nationally, sportsmen and wildlife enthusiasts spend an estimated $100 billion each year on outdoor activities. But preserving species is about more than just economic value and being good stewards of the Earth. It is also about our health. A recent study by the National Cancer Institute showed that in the past 20 years, 78 percent of new antibiotics and 74 percent of new anticancer drugs were linked to natural products. Every species that goes extinct decreases our chances of finding the next miracle drug to fight infection, Alzheimer's, cancer, or AIDS.

The substitute amendment being offered by Mr. MILLER, Mr. BOEHLERT, and others is a considerable improvement on the underlying bill. It eliminates payoffs to developers, puts more teeth into recovery plans, and ensures that scientific standards don't get watered down. It is not an ideal substitute, but it will certainly do much more for truly protecting endangered species than H.R. 3824.

The Endangered Species Act is something we should be proud of, and something we should look to tweak to improve species recovery, not gut to give egregious and unwarranted payouts to developers. I urge my colleagues to join me in defeating H.R. 3824.

Mr. ENGEL. Mr. Chairman, there is an old saying "The South will rise again!" Well, the bill before us today is proof the "Era of Big Government has come again!" Let no mistake be made, those who support this bill cannot claim to be dedicated to fiscal responsibility and smaller government. This bill blows another hole in the Federal deficit.

I oppose this sham overhaul of the Endangered Species Act. Enacted in 1973, this landmark legislation has been hugely successful in saving many species from becoming extinct and has been an important conservation tool. The Endangered Species Act must be strengthened not decimated.

Of the more than 1,800 plants and animals protected by the act, only 9 percent have been declared extinct. Those species that have survived continue to grow and flourish. Newly named, the Threatened and Endangered Species Recovery Act ignores this success and carves out loopholes in the Act that will allow developers and others to avoid the law's protections. This legislation eliminates extremely critical habitat designations, giving many species no opportunity to survive.

It is a travesty that the leadership in this House, is yet again giving business the upper hand over sensible and effective environmental protection law. Private landowners will now have no incentive to protect their land. In fact, the Federal Government will now pay landowners for merely abiding the law!

Mr. Chairman, this Act does not "modernize" or "reform" the Endangered Species Act, it guts it and should be called the landowner and developer welfare act.

Mr. THOMPSON of California. Mr. Chairman, I agree with Chairman POMBO that the Endangered Species Act is in need of reform, and the way in which critical habitat is currently administered is one of the glaring problems with the act today.

For instance, in my district the Fish and Wildlife Service recently issued a critical habitat map for an endangered species which encompasses 74,000 acres including downtowns, streets and existing apartment complexes.

However, there are aspects with this bill in its current form that concern me and unfortunately, I cannot support it at this time.

I am very concerned with section 3 of H.R. 3824 which transfers all the responsibilities for implementation of the Endangered Species Act to the Secretary of Interior. I question the agency's existing level of expertise on fishery issues and its fiscal and technical capacity to take on such a task.

I raise this as a concern also because their past actions have proven to me that they don't have the capability or understanding needed to protect listed salmon.

In 2002, the Department did not listen to warnings from NOAA Fisheries—the agency that currently manages and protects threatened and endangered salmon—and State biologists who warned months ahead of time that due to a drought and the existing management practices by the Department of Interior, there could be a fish kill on the Klamath River. Unfortunately, the Department did not listen to these warnings, and that September some 80,000 adult fish died. This fish kill had, and continues to have a catastrophic impact on my district and the fishing related communities from the Washington/Oregon border—to south of San Francisco. The immediate result was obvious, but commercial fishing season was cut in half this year due to poor salmon returns caused by the fish kill, and fishery biologists expect the fishing season throughout this region to be cut like this for years to come.

Finally, I am concerned with how quickly this bill has moved through the House. I believe the process to make these important decisions regarding the existence of a species and our livelihood needs to be open, transparent and inclusive. In 1994, Representative CARDOZA and I helped pass revisions to the California Environmental Quality Act. As you can imagine, Mr. Chairman, this process was long and difficult. However, we formed a working group which included mainstream environmental, sportsmen, agriculture and industry organizations. In the end, all parties supported this bill. Unfortunately, the reforms we are voting on today do not have that same level of endorsement. However, I strongly believe that if the process was more transparent and inclusive, we could find a balance that would be more agreeable to all parties.

In closing, I believe that the Endangered Species Act must be reformed and hope to work with you in reforming it to make it work better. However, for the reasons stated, I unfortunately cannot support this bill in its current form.

Mr. EVERETT. Mr. Chairman, I rise today as a cosponsor of H.R. 3824, the Threatened and Endangered Species Recovery Act. Alabama ranks in the top five States in the number of listed species, and passage of this legislation will move us closer to achieving the goal of protecting and recovering the Nation's threatened and endangered species by adding a layer of common sense.

The Endangered Species Act, ESA, although enacted with honorable intentions, has strayed from its original purpose of conserving plants and wildlife. Currently, there are nearly 1,300 domestic species listed as threatened or

endangered. Since the enactment of the ESA, only 10 species, less than 1 percent of those listed as endangered, have been recovered. This is just one of the numerous reasons why this legislation needs updating.

Most importantly, the manager's amendment includes a significant provision that requires the Fish and Wildlife Service to consider the economic and national security impact of listing a species. This impact analysis is an important tool that provides vital information to Congress, federal agencies, states, and landowners about the potential effects of the ESA within those geographic areas deemed to be essential for the species' survival and recovery. Private property owners ought to have this information at the time a species is proposed for listing. Such timely notice serves to let everyone know whether they should be interested in the listing process and, ideally, brings them to the table to participate. I would like to thank Chairman POMBO for all his hard work on crafting this important piece of legislation, and I am very appreciative of his efforts to include this provision in his manager's amendment.

By enhancing the rights of private property owners and improving the impact analysis of the listing process, the ESA will actually work to protect endangered species. I urge all of my colleagues to support this measure.

Mr. UDALL of Colorado. Mr. Chairman, I cannot vote for this bill as it stands.

I support much of the thrust of the original bill. I support putting more emphasis on recovery plans and on steps to provide incentives for landowners and other private parties to help with recovering species. And the Resources Committee did make improvements in the original bill.

Unfortunately, though, other needed amendments were not approved—and as a result I concluded that the bill's defects were still so numerous and so serious that it should not be approved without further changes.

That was why I supported the bipartisan substitute. Had it been adopted, we would have kept the best parts of the bill as reported—including the authorization for reimbursement for livestock losses that I supported in the Resources Committee—and made the further improvements that were needed for it to deserve approval by the full House of Representatives.

Unfortunately, that did not occur, so we are left with a bill that does not include those improvements.

Proponents of the reported bill say the Endangered Species Act has led to too many lawsuits. But according to the Bush Administration's analysis of the bill as reported, "the new definition of jeopardy in the bill, as well as various statutory deadlines, may generate new litigation and further divert agency resources from conservation purposes." The substitute did not have the same problems.

Similarly, the substitute did not include the reported bill's vague provisions that would set up a new entitlement program—a program without clear boundaries that would increase federal spending to an extent that cannot be easily calculated.

Those provisions worry the Bush Administration, which has told us that they "provide little discretion to Federal agencies and could result in a significant budgetary impact."

And after reviewing the bill as reported, the nonpartisan budget watchdog group, Taxpayers for Common Sense, concluded that "This legislation is rife with loopholes and vague wording that have the potential to cost taxpayers billions of dollars, and must be revised."

I supported the bipartisan substitute because it would have made the revisions necessary to close those loopholes.

Nonetheless, while I cannot support the bill today, I am hopeful that it will be further improved as the legislative process continues and that the result will be legislation to revise the Endangered Species Act that I can support and that will deserve the support of every Member of Congress.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I rise today to request that my name be removed as a cosponsor of H.R. 3824, the Threatened and Endangered Species Recovery Act of 2005 (TESRA).

Species conservation is an essential tenet in the effort to promote and maintain a healthy environment. Although I agree with Congressman POMBO's initiative in principle, after reviewing the legislation closely I came to the conclusion that this bill would jeopardize critical habitat protections that endangered plants and animals need to survive and recover their populations, and it would do little to protect the planet's most threatened wildlife.

As a Senior Member of the House Science Committee, I also have serious reservations that in its current form, H.R. 3824 attempts to substitute politics for sound science in decisions involving endangered species, letting expediency and profit motives influence what should be scientific decisions.

Mr. HEFLEY. Mr. Chairman, I rise in support of the legislation offered by the gentleman from California (Mr. POMBO) and would like to give you an example of why this bill is needed.

Seven years ago, the Fish and Wildlife Service contacted my office to state they were going to list the Preble's meadow jumping mouse as a threatened species.

It wasn't even a surprise. State and local authorities had known the mouse might be listed for years. And, at first, it didn't even seem like it would be that much of a problem. The mouse was a nocturnal animal that dwelt within a hundred feet of either side of streambeds.

The Front Range of the Rockies could also claim at least three government reservations—the U.S. Air Force Academy, Rocky Flats and Warren AFB in Wyoming—which offered the mouse almost untrammeled range in which to roam.

But over the course of the next seven years, the lines moved. Now the mouse's range extended beyond the stream beds, sometimes by miles. Habitat had to be protected, not only where the mouse had been found but also where it might be found if indeed a three-inch-long rodent could travel several miles to get there.

Over the past seven years, the State of Colorado spent approximately $8 million to preserve the mouse. Counties up and down the Front Range spent even more money to acquire open space and to develop habitat conservation plans, few of which, to my knowledge, were ever completed or even begun. This is not even counting the impact to private property owners, not knowing whether they could use or develop their property.

And after all this, all the money spent, all the needless planning and contention, it turned out the Fish and Wildlife Service was wrong. The Preble's meadow jumping mouse was not threatened. It wasn't even a separate subspecies. A scientist at the Denver Museum of Nature and Science stated this and the scientist whose 1954 work led to the original listing, agreed with the new data.

And so the delisting process started. Hopefully, we'll see it completed sometime in the near future though there is some evidence that Fish and Wildlife is taking its time in doing so. But meanwhile, the states of Wyoming and Colorado and its Front Range counties and cities and residents are out at least $8 million and probably more for no good reason.

After all this time and expense, nothing has been produced. That is why this bill is needed. If we are going to undertake these massive land-planning schemes, then the Feds ought to be sure of their facts. If they are going to mandate conservation planning and land set-asides, then maybe they ought to send the money along to do that. The states, counties and cities have other things they could spend their tax dollars on.

The ESA, as it currently stands, does nothing but keep attorneys and interest groups busy and needs reformed. So I say, let's try this approach. I urge your support of H.R. 3824.

Mr. ETHERIDGE. Mr. Chairman, today I rise in opposition to H.R 3824, the Threatened and Endangered Species Recovery Act. Under the Constitution, we are charged with securing this country's blessings not only for ourselves, but for our posterity. This bill turns its back on our posterity.

The Endangered Species Act has been a model for the protection and preservation of endangered species since 1973. When this legislation was first passed, many species in this country were on the brink of extinction, and many more were in severe decline. ESA is essential to safeguard our natural resources and ensure the biodiversity that is critical to a healthy environment for all species, including human beings. ESA is a great American success story that should only be altered with the greatest of care.

In the thirty years since the passage of the Endangered Species Act, we have seen an amazing turnaround in both the population numbers of species that were in decline, as well as in the significant environmental improvements that have fostered their recovery.

I acknowledge the concerns of landowners and farmers about the current law, and I agree that the current law needs to be reformed. This is why I support the Miller-Boehlert substitute bill. The substitute helps small landowners by dedicating funding for technical assistance for private property owners, and it provides conservation grants for landowners who help conserve endangered species on their property. Finally, it provides assurances that private citizens will get timely answers from the Fish & Wildlife Service regarding the status of endangered species requirements on their land. The Miller-Boehlert Substitute provides positive changes to the current ESA without reversing the progress that has been made over the past thirty years. The bipartisan substitute is not perfect legislation, but it is far superior to H.R. 3824.

H.R. 3824 was introduced just last week and was marked up without any public hearings, yet this legislation would most certainly rank as the most sweeping and significant

change of environmental law in the past three decades.

I have grave concerns about provisions in the bill that give political appointees the power to remove species from the endangered list based on political decisions rather than on sound science. Habitat degradation is the leading cause of species decline, and this bill proposes to eliminate critical habitat designations. I do not understand how eliminating protected areas can result in greater protection of endangered species.

The Endangered Species Act needs an update, but we must not reverse course on significant progress and results for endangered species. We have a solemn obligation to maintain responsible stewardship of America's bounty, and this legislation would abandon that responsibility. I urge my colleagues to vote against H.R. 3824, and to vote in favor of the balanced, bipartisan substitute legislation for ESA reform.

Mr. STARK. Mr. Chairman, I rise today in opposition to H.R. 3824, the Threatened and Endangered Species Recovery Act.

The Republican majority has already dismantled nearly every Government program for people, and now it appears they're moving on to other species. They constantly preach that God's creations are precious, yet once again they are showing their hypocrisy that they would be so careless with the lives of God's creatures. Perhaps if some of these endangered species were in a persistent vegetative state, Republicans would come rushing to their aid. Perhaps if scientists would concede these same plants and animals were fashioned during the week of God's creating the world, the right wing would be willing to help.

The Republicans want us to believe that this bill represents a fair and balanced way to protect endangered species without infringing on property rights. Not true. This bill grants unprecedented and immeasurable subsidies to land owners rather than ensuring their fair costs are covered; so much so in fact, that the nonpartisan Congressional Budget Office cannot estimate the potential impact to the Federal budget.

This bill is nothing more than an assault on our environment. I urge my colleagues to join me, and every environmental organization on God's green Earth, in opposing this bill.

Mr. PAYNE. Mr. Chairman, I rise today to oppose the unwise, unsound, and unsubstantiated policy changes contained in H.R. 3824—misleadingly named the Threatened and Endangered Species Recovery Act of 2005.

I am deeply concerned about the elimination of all critical habitat provisions of the Endangered Species Act without any mechanism to protect habitat needed for species recovery. I am troubled by the removal of protections for ''threatened'' species and the weakening of endangered species recovery teams.

Moreover, I believe that sound science produces accurate data from which sound policy decisions can be made. When we choose not to respect the role of science in our regulatory decisions, we are cheating ourselves out of valuable information and we run the risk of making poor or erroneous judgments about crucial conservation decisions. By allowing a political appointee to develop a definition of ''best available science'' and increasing barriers to access to scientific data, I believe that this bill needlessly politicizes scientific decision-making, and I fear that we are setting ourselves up for many unsound policy choices as a result.

I am not only motivated by the harms this bill will have on the plant and animal species, but by the threat to the health and well-being of the human species as well. The pesticide provisions of this bill seem to indicate a willingness to endanger the lives of migrant and seasonal farmworkers, their families, and their children. This weakening of pesticide standards poses a serious threat to public health, and I cannot support any bill that does not take seriously the health and safety of the American public.

We also do a disservice to the American people when we are not wise stewards of their taxpayer dollars. Using those dollars to pay developers for complying with the ESA's regulations is a clear violation of the fiduciary duty with which we are all endowed.

Mr. Chairman, I would like to again voice my opposition to H.R. 3824, and I encourage all of my colleagues who care about conservation to do so as well.

Ms. DELAURO. Mr. Chairman, I rise in strong opposition to this bill. The legislation before us today turns back the clock on 35 years of progress in responsible environmental stewardship by gutting the current Endangered Species Act and replacing it with little to preserve endangered wildlife for future generations.

Over 99 percent of the species that have been listed as threatened or endangered under current law have been saved from extinction. But had this bill been the law of the land over the last 30 years, the Fish and Wildlife Service points out that the Bald Eagle—an icon of American freedom—would exist only in our memones.

Any law that is 35 years old should be looked at with a fresh eye, and so I am supportive of attempts to update and improve the Endangered Species Act. Indeed, in my home state of Connecticut, we are concerned that oysters, a key aquaculture product, may be unnecessarily characterized as an endangered species. And so we should be willing to consider smart changes to the law.

But that is not the intent of the underlying bill. Rather, the purpose of this legislation is to remove obstacles inconvenient to special interests with whom the Republican leadership is in partnership. For this majority and their supporters—developers, the oil and gas industry—laws protecting the air and water are not a priority—they are a nuisance. As such, this legislation would eliminate conservation measures on tens of millions of acres of land around the country, the ''critical habitat'' of endangered species, and prevent such conservation activities in the future.

It also reveals the majority's clear disdain for sound science. Current law requires a review of all scientific and commercial data by a panel of outside scientists. This, Mr. Chairman, ensures that the peer-review process—a central tenet of sound scientific research—guides the process, not ideology and politics. Instead, this bill would allow the Secretary of the Interior to make a determination about whether a species is endangered based on ''all available information''—that is to say, information that opens the door for phony science supporting special interests.

Finally, Mr. Chairman, the bill fails the fiscal responsibility test. By allowing for payments to land owners who do not develop land that is home to protected species, it actually creates a system where people and businesses—mostly big oil and gas companies—are paid for following the law. If only we were all so fortunate.

This bill is nothing more than yet another entitlement program for special interests—as always, with this majority, at the expense of the taxpayer. Little wonder that even conservative groups like Taxpayers For Common Sense have expressed their grave concerns regarding this legislation.

Mr. Chairman, the Endangered Species Act is a statement of our priorities as Americans. It is an affirmation of our belief that, just as we desire better economic opportunity for our children and future generations, so too do we hope to leave them a healthier environment. Unfortunately, the underlying bill will accomplish neither. This is simply the continuation of a decade-long assault by the majority on our clean air, our clean water and our environment. And it should be rejected.

Mr. BISHOP of New York. Mr. Chairman, I rise in support of this bipartisan substitute and in unwavering opposition to the underlying Threatened and Endangered Species Act of 2005, which does not defend endangered species as it purports, but rather protects the special interests of private industry and landowners.

I am concerned about the environmental and fiscal health of our great nation and the path chosen by many of America's leaders whose policies are painfully lacking in promoting conservation. Although Americans may debate the need to update the Endangered Species Act of 1973, TESRA is absolutely not the answer. In fact, TESRA is a step back, furthering the degradation of species and compounding man's conflict with the environment.

What exactly is the urgency by which the majority has brought this issue at this time? America is still in mourning as we enter the early stages of rebuilding the Gulf Coast and fighting a war in Iraq and Afghanistan costing our nation hundreds upon hundreds of billions of taxpayer dollars.

Particularly egregious is that TESRA will cost nearly $3 billion in new spending in just the next 4 years, which will be used not to protect threatened and endangered species, but rather the interests of private landowners.

Taxpayers should be outraged by the fiscal irresponsibility of this Congress. If we have $3 billion to give away, let's give it to families in need by renewing TANF or to expand rather than cut Pell grants so that students who wish to attend college can meet the financial demands.

In my district, hardworking families are struggling to absorb the high costs of fuel into their budget while putting food on their tables and sending their children to college.

Mr. Chairman, the narrow-vision and short-term policy decisions made by this Congress do not reflect middle-class values. At what point will a clean environment and healthy future for our children and grandchildren become a priority?

The American public deserves a future that includes true protection of our endangered species and the development of fuel sources that are clean, renewable and promote conservation and energy independence.

Mr. Chairman, I urge my colleagues to reject the underlying legislation to reform the ESA and support the bipartisan substitute.

Mr. HOLT. Mr. Chairman, I rise today to express my strong opposition to the Threatened and Endangered Species Recovery Act of 2005. Despite the deceptive title of this bill, it is a measure designed to weaken the protections secured under the landmark Endangered Species Act (ESA).

While scientists are uncertain about the exact rate of extinction, they estimate that it is probably thousands of times greater than the rate prior to human civilization. In 1973 Congress enacted the ESA to address this problem of species extinction. The ESA is a comprehensive legal measure that is used to identify and protect species that are determined to be the most at risk. Under this law, once a species is designated as either ''endangered'' or ''threatened,'' powerful legal tools are available to aid in the recovery of the species and to protect its habitat. Without these strong federal protections hundreds of species including the bald eagle, grizzly bear, Florida panther, and the manatee would all be extinct.

The bill we are debating today is flawed in many ways, but I am particularly concerned with its removal of habitat protection from the Endangered Species Act. Habitat destruction, degradation, and fragmentation is the most significant cause of species extinction. This legislation blatantly ignores the integral role habitat plays in the survival of a species by eliminating the designation of ''critical habitat.'' Without this special designation, our government's ability to recover species will be severely undermined.

It is disconcerting that some of my colleagues do not value saving our unique natural treasures, but it is appalling that they refuse to acknowledge that the Endangered Species Act is about much more than saving a unique species. It is undeniable that the world in which we live is an intricately connected environment that is suffering from human abuse and neglect. The loss of a species interrupts the life cycle of the ecosystem it was part of and alters our environment in ways far beyond this isolated event. The Endangered Species Act is a vital tool in preventing and reversing these life cycle disruptions before they ripple out and cause further damage to our natural communities.

We all agree that this law should be revisited and improvements to the law should be implemented. I understand the concerns of my colleagues that this law has been abused at the detriment of their constituents' rights. However, I believe there are ways to balance the needs of development and property rights with the need to protect the health of the environment which we all share. Instead of working towards a true compromise, we are considering legislation that is based on the fallacious premise that environmental protection requires a trade-off with private interests. It takes a very short-sighted, short term view of our world and our economy. It ignores the long term damage catering to these private interests will have on our future.

The Threatened and Endangered Species Recovery Act of 2005 severely hampers the effectiveness of the Endangered Species Act. I urge my colleagues to oppose this legislation that will result in far reaching and detrimental impacts.

Mr. HONDA. Mr. Speaker, the Endangered Species Act is a safety net for wildlife, plants and fish that are on the brink of extinction. Over its 32-year history, the Endangered Species Act has been 99 percent successful in saving species from extinction, with only 7 out of over 1,200 species having gone extinct after being listed under the Act. The number of species that have fully recovered is not as high, however, and at this point there is a recognition that the current critical habitat arrangement doesn't work, for a whole host of reasons.

I believe that any legislation amending the Endangered Species Act should include a number of critical principles. It should not weaken existing law, nor should changes be adopted that would alter the original intent of the Endangered Species Act. The Act was written to protect all plants and animals in the United States from extinction and to restore them to stable populations. Limiting protections for imperiled species now would serve only to make protection and recovery much more difficult and expensive in the future.

I also believe that habitat protections for threatened and endangered species should not be weakened. The loss of habitat is widely considered by scientists to be the primary cause of species extinction and endangerment. Preservation of habitat is an essential element to any and all efforts to protect and recover endangered species. Additionally, any amendments should maintain the mandate for the Endangered Species Act to work towards recovery. The Endangered Species Act requires not only that we protect species from extinction but also that we recover species to the point where protection is no longer needed. Merely maintaining the survival of a species contradicts the spirit and letter of the law, which is why we need to hold federal actions to the standard of recovering species.

Citizen input and oversight are vital to good Endangered Species Act decisions and management, so any changes to the Act should avoid unnecessary hurdles to public participation. It is also important to uphold the scientific process behind Endangered Species Act decisions. The scientific review of matters relating to the Endangered Species Act is already sufficiently rigorous. Adding another layer of bureaucracy would serve only to slow the process, to the detriment of both the species in question and affected citizens. Finally, I believe that while vigilant Congressional oversight is critical to the success of any law, putting an arbitrary expiration date on the Endangered Species Act would place the protection of species at the mercy of the legislative calendar.

Mr. Chairman, white I realize that the Endangered Species Act is not perfect, I believe that the version of the bill that is before us today will eliminate critical habitat without including other mechanisms to protect species' homes. Unless substantial amendments to address this and other shortcomings are passed on the floor today, I will not support H.R. 3824. I applaud the efforts of a bipartisan group of my colleagues, including Mr. MILLER, Mr. BOEHLERT, and the original author of ESA, Representative DINGELL, who have worked hard to develop an alternative bill that I am happy to support.

Mr. SMITH of Texas. Mr. Chairman, I rise in support of H.R. 3824. Reform of the Endangered Species Act is much needed. The law has adversely affected thousands of farmers, ranchers and homeowners whose private property has been taken without compensation.

Over 90 percent of endangered plant and animal species are found on private property. There should be a balance between the rights of property owners and conservation.

H.R. 3824 will allow the Secretary of Interior to compensate private property owners for the fair market value of the loss of use of their property when the Secretary concludes that the use of the property would be a taking. The compensation will be made available as aid and through a grant program. This is a fair and long-overdue process that will actually promote preservation and conservation of endangered species and at the same time protect private property rights.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise today in opposition to H.R. 3824. I strongly believe that this is a very sensitive issue and should be looked at very carefully. While it is important to protect and save the many precious animals of this earth, it is also important not to take the property of the many Americans who have worked hard to obtain their homes and land. This issue needs to be looked at from a bipartisan perspective and because of this I am in support of the substitute amendment offered by Mr. MILLER of California.

The Miller substitute is a responsible alternative to the Pombo bill. The amendment not only addresses the current problems in the Pombo bill, but also improves the current law. Congressmen MILLER and BOEHLERT have presented Congress with a creative, workable solution that promises better results for recovering endangered species and reducing burdens for landowners. Among other things, the substitute protects habitat for species recovery by maintaining habitat protections and puts the primary obligation for recovery on federal agencies by clearly defining ''jeopardy.'' It also makes clear that any federal agency action that impairs species recovery will jeopardize the continued existence of the species and, therefore, is prohibited.

Furthermore, the substitute guarantees that federal agencies consult with the Fish and Wildlife Service to ensure that their actions do not jeopardize threatened and endangered wildlife. Additionally, it ensures that all newly listed species have recovery plans within 3 years and species already on the list have recovery plans within 10 years. Recovery plans will identify all areas necessary for the conservation of listed species. Prior to the development of recovery plans, the Miller substitute encourages the development of guidance that identifies particular types of activities that could negatively impact recovery. One of the most important aspects of the Miller substitute is that it provides real landowner incentives for conservation through cost sharing and technical assistance. Finally, it enhances the role of the states in helping conserve endangered species through improved cooperative agreements and greater federal-state consultation. Because of these factors, I support the Miller substitute.

The CHAIRMAN. All time for general debate has expired.

In lieu of the amendment printed in the bill, it shall be in order to consider as an original bill for the purpose of amendment under the 5-minute rule an amendment in the nature of a substitute consisting of the text of the Resources Committee Print dated September 26, 2005. The amendment in the

nature of a substitute shall be considered read.

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

H.R. 3824

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 ''Threatened and Endangered Species Recovery Act of 2005''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Amendment references.
Sec. 3. Definitions.
Sec. 4. Determinations of endangered species and threatened species.
Sec. 5. Repeal of critical habitat requirements.
Sec. 6. Petitions and procedures for determinations and revisions.
Sec. 7. Reviews of listings and determinations.
Sec. 8. Secretarial guidelines; State comments.
Sec. 9. Recovery plans and land acquisitions.
Sec. 10. Cooperation with States and Indian tribes.
Sec. 11. Interagency cooperation and consultation.
Sec. 12. Exceptions to prohibitions.
Sec. 13. Private property conservation.
Sec. 14. Public accessibility and accountability.
Sec. 15. Annual cost analyses.
Sec. 16. Reimbursement for depredation of livestock by reintroduced species.
Sec. 17. Authorization of appropriations.
Sec. 18. Miscellaneous technical corrections.
Sec. 19. Clerical amendment to table of contents.
Sec. 20. Certain actions deemed in compliance.

SEC. 2. AMENDMENT REFERENCES.

Except as otherwise expressly provided, whenever 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 such section or other provision of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

SEC. 3. DEFINITIONS.

(a) BEST AVAILABLE SCIENTIFIC DATA.—Section 3 (16 U.S.C. 1532) is amended by redesignating paragraphs (2) through (21) in order as paragraphs (3), (4), (5), (6), (7), (8), (9), (10), (11), (13), (14), (15), (16), (17), (18), (19), (20), (21), and (22), respectively, and by inserting before paragraph (3), as so redesignated, the following:

''(2)(A) The term 'best available scientific data' means scientific data, regardless of source, that are available to the Secretary at the time of a decision or action for which such data are required by this Act and that the Secretary determines are the most accurate, reliable, and relevant for use in that decision or action.

''(B) Not later than one year after the date of the enactment of the Threatened and Endangered Species Recovery Act of 2005, the Secretary shall issue regulations that establish criteria that must be met to determine which data constitute the best available scientific data for purposes of subparagraph (A).

''(C) If the Secretary determines that data for a decision or action do not comply with the criteria established by the regulations issued under subparagraph (B), do not comply with guidance issued under section 515 of the Treasury and General Government Appropriations Act, 2001 (Public Law 106–554; 114 Stat. 2763A–171) by the Director of the Office of Management and Budget and the Secretary, do not consist of any empirical data, or are found in sources that have not been subject to peer review in a generally acceptable manner—

''(i) the Secretary shall undertake the necessary measures to assure compliance with such criteria or guidance; and

''(ii) the Secretary may—

''(I) secure such empirical data;

''(II) seek appropriate peer review; and

''(III) reconsider the decision or action based on any supplemental or different data provided or any peer review conducted pursuant to this subparagraph.''.

(b) PERMIT OR LICENSE APPLICANT.—Section 3 (16 U.S.C. 1532) is further amended by amending paragraph (13), as so redesignated, to read as follows:

''(13) The term 'permit or license applicant' means, when used with respect to an action of a Federal agency that is subject to section 7(a) or (b), any person that has applied to such agency for a permit or license or for formal legal approval to perform an act.''.

(c) JEOPARDIZE THE CONTINUED EXISTENCE.—Section 3 (16 U.S.C. 1532) is further amended by inserting after paragraph (11) the following:

''(12) The term 'jeopardize the continued existence' means, with respect to an agency action (as that term is defined in section 7(a)(2)), that the action reasonably would be expected to significantly impede, directly or indirectly, the conservation in the long-term of the species in the wild.''.

(d) CONFORMING AMENDMENT.—Section 7(n) (16 U.S.C. 1536(n)) is amended by striking ''section 3(13)'' and inserting ''section 3(14)''.

SEC. 4. DETERMINATIONS OF ENDANGERED SPECIES AND THREATENED SPECIES.

(a) REQUIREMENT TO MAKE DETERMINATIONS.—Section 4 (16 U.S.C. 1533) is amended by striking so much as precedes subsection (a)(3) and inserting the following:

''DETERMINATION OF ENDANGERED SPECIES AND THREATENED SPECIES

''SEC. 4. (a) IN GENERAL.—(1) The Secretary shall by regulation promulgated in accordance with subsection (b) determine whether any species is an endangered species or a threatened species because of any of the following factors:

''(A) The present or threatened destruction, modification, or curtailment of its habitat or range by human activities, competition from other species, drought, fire, or other catastrophic natural causes.

''(B) Overutilization for commercial, recreational, scientific, or educational purposes.

''(C) Disease or predation.

''(D) The inadequacy of existing regulatory mechanisms, including any efforts identified pursuant to subsection (b)(1).

''(E) Other natural or manmade factors affecting its continued existence.

''(2) The Secretary shall use the authority provided by paragraph (1) to determine any distinct population of any species of vertebrate fish or wildlife to be an endangered species or a threatened species only sparingly.''.

(b) BASIS FOR DETERMINATION.—Section 4(b)(1)(A) (16 U.S.C. 1533(b)(1)(A)) is amended—

(1) by striking ''best scientific and commercial data available to him'' and inserting ''best available scientific data''; and

(2) by inserting ''Federal agency, any'' after ''being made by any''.

(c) LISTS.—Section 4(c)(2) (16 U.S.C. 1533(c)(2)) is amended to read as follows:

''(2)(A) The Secretary shall—

''(i) conduct, at least once every 5 years, based on the information collected for the biennial reports to the Congress required by paragraph (3) of subsection (f), a review of all species included in a list that is published pursuant to paragraph (1) and that is in effect at the time of such review; and

''(ii) determine on the basis of such review and any other information the Secretary considers relevant whether any such species should—

''(I) be removed from such list;

''(II) be changed in status from an endangered species to a threatened species; or

''(III) be changed in status from a threatened species to an endangered species.

''(B) Each determination under subparagraph (A)(ii) shall be made in accordance with subsections (a) and (b).''.

SEC. 5. REPEAL OF CRITICAL HABITAT REQUIREMENTS.

(a) REPEAL OF REQUIREMENT.—Section 4(a) (16 U.S.C. 1533(a)) is amended by striking paragraph (3).

(b) CONFORMING AMENDMENTS.—

(1) Section 3 (16 U.S.C. 1532), as amended by section 3 of this Act, is further amended by striking paragraph (6) and by redesignating paragraphs (7) through (22) in order as paragraphs (6) through (21).

(2) Section 4(b) (16 U.S.C. 1533(b)), as otherwise amended by this Act, is further amended by striking paragraph (2), and by redesignating paragraphs (3) through (8) in order as paragraphs (2) through (7), respectively.

(3) Section 4(b) (16 U.S.C. 1533(b)) is further amended in paragraph (2), as redesignated by paragraph (2) of this subsection, by striking subparagraph (D).

(4) Section 4(b) (16 U.S.C. 1533(b)) is further amended in paragraph (4), as redesignated by paragraph (2) of this subsection, by striking ''determination, designation, or revision referred to in subsection (a)(1) or (3)'' and inserting ''determination referred to in subsection (a)(1)''.

(5) Section 4(b) (16 U.S.C. 1533(b)) is further amended in paragraph (7), as redesignated by paragraph (2) of this subsection, by striking ''; and if such regulation'' and all that follows through the end of the sentence and inserting a period.

(6) Section 4(c)(1) (16 U.S.C. 1533(c)(1)) is amended—

(A) in the second sentence—

(i) by inserting ''and'' after ''if any''; and

(ii) by striking '', and specify any'' and all that follows through the end of the sentence and inserting a period; and

(B) in the third sentence by striking '', designations,''.

(7) Section 5 (16 U.S.C. 1534), as amended by section 9(a)(3) of this Act, is further amended in subsection (j)(2) by striking ''section 4(b)(7)'' and inserting ''section 4(b)(6)''.

(8) Section 6(c) (16 U.S.C. 1535(c)), as amended by section 10(1) of this Act, is further amended in paragraph (3) by striking ''section 4(b)(3)(B)(iii)'' each place it appears and inserting ''section 4(b)(2)(B)(iii)''.

(9) Section 7 (16 U.S.C. 1536) is amended—

(A) in subsection (a)(2) in the first sentence by striking ''or result in the destruction or adverse modification of any habitat of such species'' and all that follows through the end of the sentence and inserting a period;

(B) in subsection (a)(4) in the first sentence by striking ''or result'' and all that follows through the end of the sentence and inserting a period; and

(C) in subsection (b)(3)(A) by striking ''or its critical habitat''.

(10) Section 10(j)(2)(C)) (16 U.S.C. 1539(j)(2)(C)), as amended by section 12(c) of this Act, is further amended—

(A) by striking ''that—'' and all that follows through ''(i) solely'' and inserting ''that solely''; and

(B) by striking ''; and'' and all that follows through the end of the sentence and inserting a period.

SEC. 6. PETITIONS AND PROCEDURES FOR DETERMINATIONS AND REVISIONS.

(a) TREATMENT OF PETITIONS.—Section 4(b) (16 U.S.C. 1533(b)) is amended in paragraph (2), as redesignated by section 5(b)(2) of this Act, by adding at the end of subparagraph (A) the following: ''The Secretary shall not make a finding that the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted unless the petitioner provides to the Secretary a copy of all information cited in the petition.''.

(b) IMPLEMENTING REGULATIONS.—

(1) PROPOSED REGULATIONS.—Section 4(b) (16 U.S.C. 1533(b)) is amended—

(A) in paragraph (4)(A), as redesignated by section 5(b)(2) of this Act—

(i) in clause (i) by striking '', and'' and inserting a semicolon;

(ii) in clause (ii) by striking ''to the State agency in'' and inserting ''to the Governor of, and the State agency in,'';

(iii) in clause (ii) by striking ''such agency'' and inserting ''such Governor or agency'';

(iv) in clause (ii) by inserting ''and'' after the semicolon at the end; and

(v) by adding at the end the following:

''(iii) maintain, and shall make available, a complete record of all information concerning the determination or revision in the possession of the Secretary, on a publicly accessible website on the Internet, including an index to such information.''; and

(B) by adding at the end the following:

''(8)(A) Information maintained and made available under paragraph (5)(A)(iii) shall include any status review, all information cited in such a status review, all information referred to in the proposed regulation and the preamble to the proposed regulation, and all information submitted to the Secretary by third parties.

''(B) The Secretary shall withhold from public review under paragraph (5)(A)(iii) any information that may be withheld under 552 of title 5, United States Code.''.

(2) FINAL REGULATIONS.—Paragraph (5) of section 4(b) (16 U.S.C. 1533(b)), as amended by section 5(b)(2) of this Act, is further amended—

(A) in subparagraph (A) by striking clauses (i) and (ii) and inserting the following:

''(i) a final regulation to implement such a determination of whether a species is an endangered species or a threatened species;

''(ii) notice that such one-year period is being extended under subparagraph (B)(i); or

''(iii) notice that the proposed regulation is being withdrawn under subparagraph (B)(ii), together with the finding on which such withdrawal is based.'';

(B) in subparagraph (B)(i) by striking ''subparagraph (A)(i)'' and inserting ''subparagraph (A)'';

(C) in subparagraph (B)(ii) by striking ''subparagraph (A)(i)'' and inserting ''subparagraph (A)''; and

(D) by striking subparagraph (C).

(3) EMERGENCY DETERMINATIONS.—Paragraph (6) of section 4(b) (16 U.S.C. 1533(b)), as redesignated by section 5(b)(2) of this Act, is further amended—

(A) in the matter preceding subparagraph (A), by inserting ''with respect to a determination of a species to be an endangered species or a threatened species'' after ''any regulation''; and

(B) in subparagraph (B), by striking ''the State agency in'' and inserting ''the Governor of, and State agency in,''.

SEC. 7. REVIEWS OF LISTINGS AND DETERMINATIONS.

Section 4(c) (16 U.S.C. 1533(c)) is amended by inserting at the end the following:

''(3) Each determination under paragraph (2)(B) shall consider one of the following:

''(A) Except as provided in subparagraph (B) of this paragraph, the criteria in the recovery plan for the species required by section 5(c)(1)(A) or (B).

''(B) If the recovery plan is issued before the criteria required under section 5(c)(1)(A) and (B) are established or if no recovery plan exists for the species, the factors for determination that a species is an endangered species or a threatened species set forth in subsections (a)(1) and (b)(1).

''(C) A finding of fundamental error in the determination that the species is an endangered species, a threatened species, or extinct.

''(D) A determination that the species is no longer an endangered species or threatened species or in danger of extinction, based on an analysis of the factors that are the basis for listing under section 4(a)(1).''.

SEC. 8. SECRETARIAL GUIDELINES; STATE COMMENTS.

Section 4 (16 U.S.C. 1533) is amended—

(1) by striking subsections (f) and (g) and redesignating subsections (h) and (i) as subsections (f) and (g), respectively;

(2) in subsection (f), as redesignated by paragraph (1) of this subsection—

(A) in the heading by striking ''AGENCY'' and inserting ''SECRETARIAL'';

(B) in the matter preceding paragraph (1), by striking ''the purposes of this section are achieved'' and inserting ''this section is implemented'';

(C) by redesignating paragraph (4) as paragraph (5);

(D) in paragraph (3) by striking ''and'' after the semicolon at the end, and by inserting after paragraph (3) the following:

''(4) the criteria for determining best available scientific data pursuant to section 3(2); and''; and

(E) in paragraph (5), as redesignated by subparagraph (C) of this paragraph, by striking ''subsection (f) of this section'' and inserting ''section 5''; and

(3) in subsection (g), as redesignated by paragraph (1) of this section—

(A) by inserting ''COMMENTS.—'' before the first sentence;

(B) by striking ''a State agency'' the first place it appears and inserting ''a Governor, State agency, county (or equivalent jurisdiction), or unit of local government'';

(C) by striking ''a State agency'' the second place it appears and inserting ''a Governor, State agency, county (or equivalent jurisdiction), or unit of local government'';

(D) by striking ''the State agency'' and inserting ''the Governor, State agency, county (or equivalent jurisdiction), or unit of local government, respectively''; and

(E) by striking ''agency's''.

SEC. 9. RECOVERY PLANS AND LAND ACQUISITIONS.

(a) IN GENERAL.—Section 5 (16 U.S.C. 1534) is amended—

(1) by redesignating subsections (a) and (b) as subsections (k) and (l), respectively;

(2) in subsection (l), as redesignated by paragraph (1) of this section, by striking ''subsection (a) of this section'' and inserting ''subsection (k)''; and

(3) by striking so much as precedes subsection (k), as redesignated by paragraph (1) of this section, and inserting the following:

''RECOVERY PLANS AND LAND ACQUISITION

''SEC. 5. (a) RECOVERY PLANS.—The Secretary shall, in accordance with this section, develop and implement a plan (in this subsection referred to as a 'recovery plan') for the species determined under section 4(a)(1) to be an endangered species or a threatened species, unless the Secretary finds that such a plan will not promote the conservation and survival of the species.

''(b) DEVELOPMENT OF RECOVERY PLANS.—(1) Subject to paragraphs (2) and (3), the Secretary, in developing recovery plans, shall, to the maximum extent practicable, give priority to those endangered species or threatened species, without regard to taxonomic classification, that are most likely to benefit from such plans, particularly those species that are, or may be, in conflict with construction or other development projects or other forms of economic activity.

''(2) In the case of any species determined to be an endangered species or threatened species after the date of the enactment of the Threatened and Endangered Species Recovery Act of 2005, the Secretary shall publish a final recovery plan for a species within 2 years after the date the species is listed under section 4(c).

''(3)(A) For those species that are listed under section 4(c) on the date of enactment of the Threatened and Endangered Species Recovery Act of 2005 and are described in subparagraph (B) of this paragraph, the Secretary, after providing for public notice and comment, shall—

''(i) not later than 1 year after such date, publish in the Federal Register a priority ranking system for preparing or revising such recovery plans that is consistent with paragraph (1) and takes into consideration the scientifically based needs of the species; and

''(ii) not later than 18 months after such date, publish in the Federal Register a list of such species ranked in accordance with the priority ranking system published under clause (i) for which such recovery plans will be developed or revised, and a tentative schedule for such development or revision.

''(B) A species is described in this subparagraph if—

''(i) a recovery plan for the species is not published under this Act before the date of enactment of the Threatened and Endangered Species Recovery Act of 2005 and the Secretary finds such a plan would promote the conservation and survival of the species; or

''(ii) a recovery plan for the species is published under this Act before such date of enactment and the Secretary finds revision of such plan is warranted.

''(C)(i) The Secretary shall, to the maximum extent practicable, adhere to the list and tentative schedule published under subparagraph (A)(ii) in developing or revising recovery plans pursuant to this paragraph.

''(ii) The Secretary shall provide the reasons for any deviation from the list and tentative schedule published under subparagraph (A)(ii), in each report to the Congress under subsection (e).

''(4) The Secretary, using the priority ranking system required under paragraph (3), shall prepare or revise such plans within 10 years after the date of the enactment of the Threatened and Endangered Species Recovery Act of 2005.

''(c) PLAN CONTENTS.—(1)(A) Except as provided in subparagraph (E), a recovery plan shall be based on the best available scientific data and shall include the following:

''(i) Objective, measurable criteria that, when met, would result in a determination, in accordance with this section, that the species to which the recovery plan applies be removed from the lists published under section 4(c) or be reclassified from an endangered species to a threatened species.

''(ii) A description of such site-specific or other measures that would achieve the criteria established under clause (i), including

such intermediate measures as are warranted to effect progress toward achievement of the criteria.

''(iii) Estimates of the time required and the costs to carry out those measures described under clause (ii), including, to the extent practicable, estimated costs for any recommendations, by the recovery team, or by the Secretary if no recovery team is selected, that any of the areas identified under clause (iv) be acquired on a willing seller basis.

''(iv) An identification of those specific areas that are of special value to the conservation of the species.

''(B) Those members of any recovery team appointed pursuant to subsection (d) with relevant scientific expertise, or the Secretary if no recovery team is appointed, shall, based solely on the best available scientific data, establish the objective, measurable criteria required under subparagraph (A)(i).

''(C)(i) If the recovery team, or the Secretary if no recovery team is appointed, determines in the recovery plan that insufficient best available scientific data exist to determine criteria or measures under subparagraph (A) that could achieve a determination to remove the species from the lists published under section 4(c), the recovery plan shall contain interim criteria and measures that are likely to improve the status of the species.

''(ii) If a recovery plan does not contain the criteria and measures provided for by clause (i) of subparagraph (A), the recovery team for the plan, or by the Secretary if no recovery team is appointed, shall review the plan at intervals of no greater than 5 years and determine if the plan can be revised to contain the criteria and measures required under subparagraph (A).

''(iii) If the recovery team or the Secretary, respectively, determines under clause (ii) that a recovery plan can be revised to add the criteria and measures provided for under subparagraph (A), the recovery team or the Secretary, as applicable, shall revise the recovery plan to add such criteria and measures within 2 years after the date of the determination.

''(D) In specifying measures in a recovery plan under subparagraph (A), a recovery team or the Secretary, as applicable, shall—

''(i) whenever possible include alternative measures; and

''(ii) in developing such alternative measures, the Secretary shall seek to identify, among such alternative measures of comparable expected efficacy, the alternative measures that are least costly.

''(E) Estimates of time and costs pursuant to subparagraph (A)(iii), and identification of the least costly alternatives pursuant to subparagraph (D)(ii), are not required to be based on the best available scientific data.

''(2) Any area that, immediately before the enactment of the Threatened and Endangered Species Recovery Act of 2005, is designated as critical habitat of an endangered species or threatened species shall be treated as an area described in subparagraph (A)(iv) until a recovery plan for the species is developed or the existing recovery plan for the species is revised pursuant to subsection (b)(3).

''(d) RECOVERY TEAMS.—(1) The Secretary shall promulgate regulations that provide for the establishment of recovery teams for development of recovery plans under this section.

''(2) Such regulations shall—

''(A) establish criteria and the process for selecting the members of recovery teams, and the process for preparing recovery plans, that ensure that each team—

''(i) is of a size and composition to enable timely completion of the recovery plan; and

''(ii) includes sufficient representation from constituencies with a demonstrated direct interest in the species and its conservation or in the economic and social impacts of its conservation to ensure that the views of such constituencies will be considered in the development of the plan;

''(B) include provisions regarding operating procedures of and recordkeeping by recovery teams;

''(C) ensure that recovery plans are scientifically rigorous and that the evaluation of costs required by paragraphs (1)(A)(iii) and (1)(D) of subsection (c) are economically rigorous; and

''(D) provide guidelines for circumstances in which the Secretary may determine that appointment of a recovery team is not necessary or advisable to develop a recovery plan for a specific species, including procedures to solicit public comment on any such determination.

''(3) The Federal Advisory Committee Act (5 App. U.S.C.) shall not apply to recovery teams appointed in accordance with regulations issued by the Secretary under this subsection.

''(e) REPORTS TO CONGRESS.—(1) The Secretary shall report every two years to the Committee on Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate on the status of all domestic endangered species and threatened species and the status of efforts to develop and implement recovery plans for all domestic endangered species and threatened species.

''(2) In reporting on the status of such species since the time of its listing, the Secretary shall include—

''(A) an assessment of any significant change in the well-being of each such species, including—

''(i) changes in population, range, or threats; and

''(ii) the basis for that assessment; and

''(B) for each species, a measurement of the degree of confidence in the reported status of such species, based upon a quantifiable parameter developed for such purposes.

''(f) PUBLIC NOTICE AND COMMENT.—The Secretary shall, prior to final approval of a new or revised recovery plan, provide public notice and an opportunity for public review and comment on such plan. The Secretary shall consider all information presented during the public comment period prior to approval of the plan.

''(g) STATE COMMENT.—The Secretary shall, prior to final approval of a new or revised recovery plan, provide a draft of such plan and an opportunity to comment on such draft to the Governor of, and State agency in, any State to which such draft would apply. The Secretary shall include in the final recovery plan the Secretary's response to the comments of the Governor and the State agency.

''(h) CONSULTATION TO ENSURE CONSISTENCY WITH DEVELOPMENT PLAN.—(1) The Secretary shall, prior to final approval of a new or revised recovery plan, consult with any pertinent State, Indian tribe, or regional or local land use agency or its designee.

''(2) For purposes of this Act, the term 'Indian tribe' means—

''(A) with respect to the 48 contiguous States, any federally recognized Indian tribe, organized band, pueblo, or community; and

''(B) with respect to Alaska, the Metlakatla Indian Community.

''(i) USE OF PLANS.—(1) Each Federal agency shall consider any relevant best available scientific data contained in a recovery plan in any analysis conducted under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

''(2)(A)(i) The head of any Federal agency may enter into an agreement with the Secretary specifying the measures the agency will carry out to implement a recovery plan.

''(ii) Each such agreement shall be published in draft form with notice and an opportunity for public comment.

''(iii) Each such final agreement shall be published, with responses by the head of the Federal agency to any public comments submitted on the draft agreement.

''(B) Nothing in a recovery plan shall be construed to establish regulatory requirements.

''(j) MONITORING.—(1) The Secretary shall implement a system in cooperation with the States to monitor effectively for not less than five years the status of all species that have recovered to the point at which the measures provided pursuant to this Act are no longer necessary and that, in accordance with this section, have been removed from the lists published under section 4(c).

''(2) The Secretary shall make prompt use of the authority under section 4(b)(7) to prevent a significant risk to the well-being of any such recovered species.''.

(b) RECOVERY PLANS FOR SPECIES OCCUPYING MORE THAN ONE STATE.—Section 6 (16 U.S.C. 1535) is amended by adding at the end the following:

''(j) RECOVERY PLANS FOR SPECIES OCCUPYING MORE THAN ONE STATE.—Any recovery plan under section 5 for an endangered species or a threatened species that occupies more than one State shall identify criteria and actions pursuant to subsection (c)(1) of section 5 for each State that are necessary so that the State may pursue a determination that the portion of the species found in that State may be removed from lists published under section 4(c).''.

(c) THREATENED AND ENDANGERED SPECIES INCENTIVES PROGRAM.—

(1) AGREEMENTS AUTHORIZED.—Section 5 (16 U.S.C. 1534) is further amended by adding at the end the following:

''(m) THREATENED AND ENDANGERED SPECIES INCENTIVES PROGRAM.—(1) The Secretary may enter into species recovery agreements pursuant to paragraph (2) and species conservation contract agreements pursuant to paragraph (3) with persons, other than agencies or departments of the Federal Government or State governments, under which the Secretary is obligated, subject to the availability of appropriations, to make annual payments or provide other compensation to the persons to implement the agreements.

''(2)(A) The Secretary and persons who own or control the use of private land may enter into species recovery agreements with a term of not less than 5 years that meet the criteria set forth in subparagraph (B) and are in accordance with the priority established in subparagraph (C).

''(B) A species recovery agreement entered into under this paragraph by the Secretary with a person—

''(i) shall require that the person shall carry out, on the land owned or controlled by the person, activities that—

''(I) protect and restore habitat for covered species that are species determined to be endangered species or threatened species pursuant to section 4(a)(1);

''(II) contribute to the conservation of one or more covered species; and

''(III) specify and implement a management plan for the covered species;

''(ii) shall specify such a management plan that includes—

''(I) identification of the covered species;

''(II) a description of the land to which the agreement applies; and

''(III) a description of, and a schedule to carry out, the activities under clause (i);

''(iii) shall provide sufficient documentation to establish ownership or control by the

person of the land to which the agreement applies;

''(iv) shall include the amounts of the annual payments or other compensation to be provided by the Secretary to the person under the agreement, and the terms under which such payments or compensation shall be provided; and

''(v) shall include—

''(I) the duties of the person;

''(II) the duties of the Secretary;

''(III) the terms and conditions under which the person and the Secretary mutually agree the agreement may be modified or terminated; and

''(IV) acts or omissions by the person or the Secretary that shall be considered violations of the agreement, and procedures under which notice of and an opportunity to remedy any violation by the person or the Secretary shall be given.

''(C) In entering into species recovery agreements under this paragraph, the Secretary shall accord priority to agreements that apply to any areas that are identified in recovery plans pursuant to subsection (c)(1)(A)(iv).

''(3)(A) The Secretary and persons who own private land may enter into species conservation contract agreements with terms of 30 years, 20 years, or 10 years that meet the criteria set forth in subparagraph (B) and standards set forth in subparagraph (D) and are in accordance with the priorities established in subparagraph (C).

''(B) A species conservation contract agreement entered into under this paragraph by the Secretary with a person—

''(i) shall provide that the person shall, on the land owned by the person—

''(I) carry out conservation practices to meet one or more of the goals set forth in clauses (i) through (iii) of subparagraph (C) for one or more covered species, that are species that are determined to be endangered species or threatened species pursuant to section 4(a)(1), species determined to be candidate species pursuant to section 4(b)(3)(B)(iii), or species subject to comparable designations under State law; and

''(II) specify and implement a management plan for the covered species;

''(ii) shall specify such a management plan that includes—

''(I) identification of the covered species;

''(II) a description in detail of the conservation practices for the covered species that the person shall undertake;

''(III) a description of the land to which the agreement applies; and

''(IV) a schedule of approximate deadlines, whether one-time or periodic, for undertaking the conservation practices described pursuant to subclause (II);

''(V) a description of existing or future economic activities on the land to which the agreement applies that are compatible with the conservation practices described pursuant to subclause (II) and generally with conservation of the covered species;

''(iii) shall specify the term of the agreement; and

''(iv) shall include—

''(I) the duties of the person;

''(II) the duties of the Secretary;

''(III) the terms and conditions under which the person and the Secretary mutually agree the agreement may be modified or terminated;

''(IV) acts or omissions by the person or the Secretary that shall be considered violations of the agreement, and procedures under which notice of and an opportunity to remedy any violation by the person or the Secretary shall be given; and

''(V) terms and conditions for early termination of the agreement by the person before the management plan is fully implemented or termination of the agreement by the Secretary in the case of a violation by the person that is not remedied under subclause (IV), including any requirement for the person to refund all or part of any payments received under subparagraph (E) and any interest thereon.

''(C) The Secretary shall establish priorities for the selection of species conservation contract agreements, or groups of such agreements for adjacent or proximate lands, to be entered into under this paragraph that address the following factors:

''(i) The potential of the land to which the agreement or agreements apply to contribute significantly to the conservation of an endangered species or threatened species or a species with a comparable designation under State law.

''(ii) The potential of such land to contribute significantly to the improvement of the status of a candidate species or a species with a comparable designation under State law.

''(iii) The amount of acreage of such land.

''(iv) The number of covered species in the agreement or agreements.

''(v) The degree of urgency for the covered species to implement the conservation practices in the management plan or plans under the agreement or agreements.

''(vi) Land in close proximity to military test and training ranges, installations, and associated airspace that is affected by a covered species.

''(D) The Secretary shall enter into a species conservation contract agreement submitted by a person, if the Secretary finds that the person owns such land or has sufficient control over the use of such land to ensure implementation of the management plan under the agreement.

''(E)(i) Upon entering into a species conservation contract agreement with the Secretary pursuant to this paragraph, a person shall receive the financial assistance provided for in this subparagraph.

''(ii) If the person is implementing fully the agreement, the person shall receive from the Secretary—

''(I) in the case of a 30-year agreement, an annual contract payment in an amount equal to 100 percent of the person's actual costs to implement the conservation practices described in the management plan under the terms of the agreement;

''(II) in the case of a 20-year agreement, an annual contract payment in an amount equal to 80 percent of the person's actual costs to implement the conservation practices described in the management plan under the terms of the agreement; and

''(III) in the case of a 10-year agreement, an annual contract payment in an amount equal to 60 percent of the person's actual costs to implement the conservation practices described in the management plan under the terms of the agreement.

''(iii)(I) If the person receiving contract payments pursuant to clause (ii) receives any other State or Federal funds to defray the cost of any conservation practice, the cost of such practice shall not be eligible for such contract payments.

''(II) Contributions of agencies or organizations to any conservation practice other than the funds described in subclause (I) shall not be considered as costs of the person for purposes of the contract payments pursuant to clause (iii).

''(4)(A) Upon request of a person seeking to enter into an agreement pursuant to this subsection, the Secretary may provide to such person technical assistance in the preparation, and management training for the implementation, of the management plan for the agreement.

''(B) Any State agency, local government, nonprofit organization, or federally recognized Indian tribe may provide assistance to a person in the preparation of a management plan, or participate in the implementation of a management plan, including identifying and making available certified fisheries or wildlife biologists with expertise in the conservation of species for purposes of the preparation or review and approval of management plans for species conservation contract agreements under paragraph (3)(D)(iii).

''(5) Upon any conveyance or other transfer of interest in land that is subject to an agreement under this subsection—

''(A) the agreement shall terminate if the agreement does not continue in effect under subparagraph (B);

''(B) the agreement shall continue in effect with respect to such land, with the same terms and conditions, if the person to whom the land or interest is conveyed or otherwise transferred notifies the Secretary of the person's election to continue the agreement by no later than 30 days after the date of the conveyance or other transfer and the person is determined by the Secretary to qualify to enter into an agreement under this subsection; or

''(C) the person to whom the land or interest is conveyed or otherwise transferred may seek a new agreement under this subsection.

''(6) An agreement under this subsection may be renewed with the mutual consent of the Secretary and the person who entered into the agreement or to whom the agreement has been transferred under paragraph (5).

''(7) The Secretary shall make annual payments under this subsection as soon as possible after December 31 of each calendar year.

''(8) An agreement under this subsection that applies to an endangered species or threatened species shall, for the purpose of section 10(a)(4), be deemed to be a permit to enhance the propagation or survival of such species under section 10(a)(1), and a person in full compliance with the agreement shall be afforded the protection of section 10(a)(4).

''(9) The Secretary, or any other Federal official, may not require a person to enter into an agreement under this subsection as a term or condition of any right, privilege, or benefit, or of any action or refraining from any action, under this Act.''.

(2) Subsection (e)(2) of section 7 (16 U.S.C. 1536) (as redesignated by section 11(d)(2) of this Act) is amended by inserting ''or in an agreement under section 5(m)'' after ''section''.

(d) CONFORMING AMENDMENTS.—

(1) Section 6(d)(1) (16 U.S.C. 1535(d)(1)) is amended by striking ''section 4(g)'' and inserting ''section 5(j)''.

(2) The Marine Mammal Protection Act of 1972 is amended—

(A) in section 104(c)(4)(A)(ii) (16 U.S.C. 1374(c)(4)(A)(ii)) by striking ''section 4(f)'' and inserting ''section 5''; and

(B) in section 115(b)(2) (16 U.S.C. 1383b(b)(2)) by striking ''section 4(f) of the Endangered Species Act of 1973 (16 U.S.C. 1533(f))'' and inserting ''section 5 of the Endangered Species Act of 1973''.

SEC. 10. COOPERATION WITH STATES AND INDIAN TRIBES.

Section 6 (16 U.S.C. 1535) is further amended—

(1) in subsection (c), by adding at the end the following:

''(3)(A) Any cooperative agreement entered into by the Secretary under this subsection may also provide for development of a program for conservation of species determined to be candidate species pursuant to section 4(b)(3)(B)(iii) or any other species that the State and the Secretary agree is at risk of being determined to be an endangered species or threatened species under section

4(a)(1) in that State. Upon completion of consultation on the agreement pursuant to subsection (e)(2), any incidental take statement issued on the agreement shall apply to any such species, and to the State and any landowners enrolled in any program under the agreement, without further consultation (except any additional consultation pursuant to subsection (e)(2)) if the species is subsequently determined to be an endangered species or a threatened species and the agreement remains an adequate and active program for the conservation of endangered species and threatened species.

''(B) Any cooperative agreement entered into by the Secretary under this subsection may also provide for monitoring or assistance in monitoring the status of candidate species pursuant to section 4(b)(3)(C)(iii) or recovered species pursuant to section 5(j).

''(C) The Secretary shall periodically review each cooperative agreement under this subsection and seek to make changes the Secretary considers necessary for the conservation of endangered species and threatened species to which the agreement applies.

''(4) Any cooperative agreement entered into by the Secretary under this subsection that provides for the enrollment of private lands or water rights in any program established by the agreement shall ensure that the decision to enroll is voluntary for each owner of such lands or water rights.

''(5)(A) The Secretary may enter into a cooperative agreement under this subsection with an Indian tribe in substantially the same manner in which the Secretary may enter into a cooperative agreement with a State.

''(B) For the purposes of this paragraph, the term 'Indian tribe' means—

''(i) with respect to the 48 contiguous States, any federally recognized Indian tribe, organized band, pueblo, or community; and

''(ii) with respect to Alaska, the Metlakatla Indian Community.'';

(2) in subsection (d)(1)—

(A) by striking ''pursuant to subsection (c) of this section'';

(B) by striking ''or to assist'' and all that follows through ''section 5(j)'' and inserting ''pursuant to subsection (c)(1) and (2) or to address candidate species or other species at risk and recovered species pursuant to subsection (c)(3)''; and

(C) in subparagraph (F), by striking ''monitoring the status of candidate species'' and inserting ''developing a conservation program for, or monitoring the status of, candidate species or other species determined to be at risk pursuant to subsection (c)(3)''; and

(3) in subsection (e)—

(A) by inserting ''(1)'' before the first sentence;

(B) in paragraph (1), as designated by subparagraph (A) of this paragraph, by striking ''at no greater than annual intervals'' and inserting ''every 3 years''; and

(C) by adding at the end the following:

''(2) Any cooperative agreement entered into by the Secretary under subsection (c) shall be subject to section 7(a)(2) through (d) and regulations implementing such provisions only before—

''(A) the Secretary enters into the agreement; and

''(B) the Secretary approves any renewal of, or amendment to, the agreement that—

''(i) addresses species that are determined to be endangered species or threatened species, are not addressed in the agreement, and may be affected by the agreement; or

''(ii) new information about any species addressed in the agreement that the Secretary determines—

''(I) constitutes the best available scientific data; and

''(II) indicates that the agreement may have adverse effects on the species that had not been considered previously when the agreement was entered into or during any revision thereof or amendment thereto.

''(3) The Secretary may suspend any cooperative agreement established pursuant to subsection (c), after consultation with the Governor of the affected State, if the Secretary finds during the periodic review required by paragraph (1) of this subsection that the agreement no longer constitutes an adequate and active program for the conservation of endangered species and threatened species.

''(4) The Secretary may terminate any cooperative agreement entered into by the Secretary under subsection (c), after consultation with the Governor of the affected State, if—

''(A) as result of the procedures of section 7(a)(2) through (d) undertaken pursuant to paragraph (2) of this subsection, the Secretary determines that continued implementation of the cooperative agreement is likely to jeopardize the continued existence of endangered species or threatened species, and the cooperative agreement is not amended or revised to incorporate a reasonable and prudent alternative offered by the Secretary pursuant to section 7(b)(3); or

''(B) the cooperative agreement has been suspended under paragraph (3) of this subsection and has not been amended or revised and found by the Secretary to constitute an adequate and active program for the conservation of endangered species and threatened species within 180 days after the date of the suspension.''.

SEC. 11. INTERAGENCY COOPERATION AND CONSULTATION.

(a) CONSULTATION REQUIREMENT.—Section 7(a) (16 U.S.C. 1536(a)) is amended—

(1) in paragraph (1) in the second sentence, by striking ''endangered species'' and all that follows through the end of the sentence and inserting ''species determined to be endangered species and threatened species under section 4.'';

(2) in paragraph (2)—

(A) in the first sentence by striking ''action'' the first place it appears and all that follows through ''is not'' and inserting ''agency action authorized, funded, or carried out by such agency is not'';

(B) in the first sentence by striking '', unless'' and all that follows through the end of the sentence and inserting a period;

(C) in the second sentence, by striking ''best scientific and commercial data available'' and inserting ''best available scientific data''; and

(D) by inserting ''(A)'' before the first sentence, and by adding at the end the following:

''(B) The Secretary may identify specific agency actions or categories of agency actions that may be determined to meet the standards of this paragraph by alternative procedures to the procedures set forth in this subsection and subsections (b) through (d), except that subsections (b)(4) and (e) may apply only to an action that the Secretary finds, or concurs, does meet such standards, and the Secretary shall suggest, or concur in any suggested, reasonable and prudent alternatives described in subsection (b)(3) for any action determined not to meet such standards. Any such agency action or category of agency actions shall be identified, and any such alternative procedures shall be established, by regulation promulgated prior or subsequent to the date of the enactment of this Act.'';

(3) in paragraph (4)—

(A) by striking ''listed under section 4'' and inserting ''an endangered species or a threatened species''; and

(B) by inserting '', under section 4'' after ''such species''; and

(4) by adding at the end the following:

''(5) Any Federal agency or the Secretary, in conducting any analysis pursuant to paragraph (2), shall consider only the effects of any agency action that are distinct from a baseline of all effects upon the relevant species that have occurred or are occurring prior to the action.''.

(b) OPINION OF SECRETARY.—Section 7(b) (16 U.S.C. 1536(b)) is amended—

(1) in paragraph (1)(B)(i) by inserting ''permit or license'' before ''applicant'';

(2) in paragraph (2) by inserting ''permit or license'' before ''applicant'';

(3) in paragraph (3)(A)—

(A) in the first sentence—

(i) by striking ''Promptly after'' and inserting ''Before'';

(ii) by inserting ''permit or license'' before ''applicant''; and

(iii) by inserting ''proposed'' before ''written statement''; and

(B) by striking all after the first sentence and inserting the following: ''The Secretary shall consider any comment from the Federal agency and the permit or license applicant, if any, prior to issuance of the final written statement of the Secretary's opinion. The Secretary shall issue the final written statement of the Secretary's opinion by providing the written statement to the Federal agency and the permit or license applicant, if any, and publishing notice of the written statement in the Federal Register. If jeopardy is found, the Secretary shall suggest in the final written statement those reasonable and prudent alternatives, if any, that the Secretary believes would not violate subsection (a)(2) and can be taken by the Federal agency or applicant in implementing the agency action. The Secretary shall cooperate with the Federal agency and any permit or license applicant in the preparation of any suggested reasonable and prudent alternatives.'';

(4) in paragraph (4)—

(A) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively;

(B) by inserting ''(A)'' after ''(4)'';

(C) by striking ''the Secretary shall provide'' and all that follows through ''with a written statement that—'' and inserting the following: ''the Secretary shall include in the written statement under paragraph (3), a statement described in subparagraph (B) of this paragraph.

''(B) A statement described in this subparagraph—''; and

(5) by adding at the end the following:

''(5)(A) Any terms and conditions set forth pursuant to paragraph (4)(B)(iv) shall be roughly proportional to the impact of the incidental taking identified pursuant to paragraph (4) in the written statement prepared under paragraph (3).

''(B) If various terms and conditions are available to comply with paragraph (4)(B)(iv), the terms and conditions set forth pursuant to that paragraph—

''(i) must be capable of successful implementation; and

''(ii) must be consistent with the objectives of the Federal agency and the permit or license applicant, if any, to the greatest extent possible.''.

(c) BIOLOGICAL ASSESSMENTS.—Section 7(c) (16 U.S.C. 1536(c)) is amended—

(1) by striking ''(1)'';

(2) by striking paragraph (2);

(3) in the first sentence, by striking ''which is listed'' and all that follows through the end of the sentence and inserting ''that is determined to be an endangered species or a threatened species, or for which such a determination is proposed pursuant to section 4, may be present in the area of such proposed action.''; and

(4) in the second sentence, by striking ''best scientific and commercial data available'' and inserting ''best available scientific data''.

(d) ELIMINATION OF ENDANGERED SPECIES COMMITTEE PROCESS.—Section 7 (16 U.S.C. 1536) is amended—

(1) by repealing subsections (e), (f), (g), (h), (i), (j), (k), (l), (m), and (n);

(2) by redesignating subsections (o) and (p) as subsections (e) and (f), respectively;

(3) in subsection (e), as redesignated by paragraph (2) of this subsection—

(A) in the heading, by striking ''EXEMPTION AS PROVIDING''; and

(B) by striking ''such section'' and all that follows through ''(2)'' and inserting ''such section,''; and

(4) in subsection (f), as redesignated by paragraph (2) of this subsection—

(A) in the first sentence, by striking ''is authorized'' and all that follows through ''of this section'' and inserting ''may exempt an agency action from compliance with the requirements of subsections (a) through (d) of this section before the initiation of such agency action,''; and

(B) by striking the second sentence.

SEC. 12. EXCEPTIONS TO PROHIBITIONS.

(a) INCIDENTAL TAKE PERMITS.—Section 10(a)(2) (16 U.S.C. 1539(a)(2)) is amended—

(1) in subparagraph (A) by striking ''and'' after the semicolon at the end of clause (iii), by redesignating clause (iv) as clause (vii), and by inserting after clause (iii) the following:

''(iv) objective, measurable biological goals to be achieved for species covered by the plan and specific measures for achieving such goals consistent with the requirements of subparagraph (B);

''(v) measures the applicant will take to monitor impacts of the plan on covered species and the effectiveness of the plan's measures in achieving the plan's biological goals;

''(vi) adaptive management provisions necessary to respond to all reasonably foreseeable changes in circumstances that could appreciably reduce the likelihood of the survival and recovery of any species covered by the plan; and'';

(2) in subparagraph (B) by striking ''and'' after the semicolon at the end of clause (iv), by redesignating clause (v) as clause (vi), and by inserting after clause (iv) the following:

''(v) the term of the permit is reasonable, taking into consideration—

''(I) the period in which the applicant can be expected to diligently complete the principal actions covered by the plan;

''(II) the extent to which the plan will enhance the conservation of covered species;

''(III) the adequacy of information underlying the plan;

''(IV) the length of time necessary to implement and achieve the benefits of the plan; and

''(V) the scope of the plan's adaptive management strategy; and''; and

(3) by striking subparagraph (C) and inserting the following:

''(3) Any terms and conditions offered by the Secretary pursuant to paragraph (2)(B) to reduce or offset the impacts of incidental taking shall be roughly proportional to the impact of the incidental taking specified in the conservation plan pursuant to in paragraph (2)(A)(i). This paragraph shall not be construed to limit the authority of the Secretary to require greater than acre-for-acre mitigation where necessary to address the extent of such impacts. In any case in which various terms and conditions are available, the terms and conditions shall be capable of successful implementation and shall be consistent with the objective of the applicant to the greatest extent possible.

''(4)(A) If the holder of a permit issued under this subsection for other than scientific purposes is in compliance with the terms and conditions of the permit, and any conservation plan or agreement incorporated by reference therein, the Secretary may not require the holder, without the consent of the holder, to adopt any new minimization, mitigation, or other measure with respect to any species adequately covered by the permit during the term of the permit, except as provided in subparagraphs (B) and (C) to meet circumstances that have changed subsequent to the issuance of the permit.

''(B) For any circumstance identified in the permit or incorporated document that has changed, the Secretary may, in the absence of consent of the permit holder, require only such additional minimization, mitigation, or other measures as are already provided in the permit or incorporated document for such changed circumstance.

''(C) For any changed circumstance not identified in the permit or incorporated document, the Secretary may, in the absence of consent of the permit holder, require only such additional minimization, mitigation, or other measures to address such changed circumstance that do not involve the commitment of any additional land, water, or financial compensation not otherwise committed, or the imposition of additional restrictions on the use of any land, water or other natural resources otherwise available for development or use, under the original terms and conditions of the permit or incorporated document.

''(D) The Secretary shall have the burden of proof in demonstrating and documenting, with the best available scientific data, the occurrence of any changed circumstances for purposes of this paragraph.

''(E) All permits issued under this subsection on or after the date of the enactment of the Threatened and Endangered Species Recovery Act of 2005, other than permits for scientific purposes, shall contain the assurances contained in subparagraphs (B) through (D) of this paragraph and paragraph (5)(A) and (B). Permits issued under this subsection on or after March 25, 1998, and before the date of the enactment of the Threatened and Endangered Species Recovery Act of 2005, other than permits for scientific purposes, shall be governed by the applicable sections of parts 17.22(b), (c), and (d), and 17.32(b), (c), and (d) of title 50, Code of Federal Regulations, as the same exist on the date of the enactment of the Threatened and Endangered Species Act of 2005.

''(5)(A) The Secretary shall revoke a permit issued under paragraph (2) if the Secretary finds that the permittee is not complying with the terms and conditions of the permit.

''(B) Any permit subject to paragraph (4)(A) may be revoked due to changed circumstances only if—

''(i) the Secretary determines that continuation of the activities to which the permit applies would be inconsistent with the criteria in paragraph (2)(B)(iv);

''(ii) the Secretary provides 60 days notice of revocation to the permittee; and

''(iii) the Secretary is unable to, and the permittee chooses not to, remedy the condition causing such inconsistency.''.

(b) EXTENSION OF PERIOD FOR PUBLIC REVIEW AND COMMENT ON APPLICATIONS.—Section 10(c) (16 U.S.C. 1539(c)) is amended in the second sentence by striking ''thirty'' each place it appears and inserting ''45''.

(c) EXPERIMENTAL POPULATIONS.—Section 10(j) (16 U.S.C. 1539(j)) is amended—

(1) in paragraph (1), by striking ''For purposes'' and all that follows through the end of the paragraph and inserting the following: ''For purposes of this subsection, the term 'experimental population' means any population (including any offspring arising therefrom) authorized by the Secretary for release under paragraph (2), but only when such population is in the area designated for it by the Secretary, and such area is, at the time of release, wholly separate geographically from areas occupied by nonexperimental populations of the same species. For purposes of this subsection, the term 'areas occupied by nonexperimental populations' means areas characterized by the sustained and predictable presence of more than negligible numbers of successfully reproducing individuals over a period of many years.'';

(2) in paragraph (2)(B), by striking ''information'' and inserting ''scientific data''; and

(3) in paragraph (2)(C)(i), by striking ''listed'' and inserting ''determined to be an endangered species or a threatened species''.

(d) WRITTEN DETERMINATION OF COMPLIANCE.—Section 10 (16 U.S.C. 1539) is amended by adding at the end the following:

''(k) WRITTEN DETERMINATION OF COMPLIANCE.—(1) A property owner (in this subsection referred to as a 'requester') may request the Secretary to make a written determination that a proposed use of the owner's property that is lawful under State and local law will comply with section 9(a), by submitting a written description of the proposed action to the Secretary by certified mail.

''(2) A written description of a proposed use is deemed to be sufficient for consideration by the Secretary under paragraph (1) if the description includes—

''(A) the nature, the specific location, the lawfulness under State and local law, and the anticipated schedule and duration of the proposed use, and a demonstration that the property owner has the means to undertake the proposed use; and

''(B) any anticipated adverse impact to a species that is included on a list published under 4(c)(1) that the requestor reasonably expects to occur as a result of the proposed use.

''(3) The Secretary may request and the requestor may supply any other information that either believes will assist the Secretary to make a determination under paragraph (1).

''(4) If the Secretary does not make a determination pursuant to a request under this subsection because of the omission from the request of any information described in paragraph (2), the requestor may submit a subsequent request under this subsection for the same proposed use.

''(5)(A) Subject to subparagraph (B), the Secretary shall provide to the requestor a written determination of whether the proposed use, as proposed by the requestor, will comply with section 9(a), by not later than expiration of the 180-day period beginning on the date of the submission of the request.

''(B) The Secretary may request, and the requestor may grant, a written extension of the period under subparagraph (A).

''(6) If the Secretary fails to provide a written determination before the expiration of the period under paragraph (5)(A) (or any extension thereof under paragraph (5)(B)), the Secretary is deemed to have determined that the proposed use complies with section 9(a).

''(7) This subsection shall not apply with respect to agency actions that are subject to consultation under section 7.

''(8) Any use or action taken by the property owner in reasonable reliance on a written determination of compliance under paragraph (5) or on the application of paragraph (6) shall not be treated as a violation of section 9(a).

''(9) Any determination of compliance under this subsection shall remain effective—

''(A) in the case of a written determination provided under paragraph (5)(A), for the 10-

year period beginning on the date the written determination is provided; or

''(B) in the case of a determination that under paragraph (6) the Secretary is deemed to have made, the 5-year period beginning on the first date the Secretary is deemed to have made the determination.

''(10) The Secretary may withdraw a determination of compliance under this section only if the Secretary determines that, because of unforeseen changed circumstances, the continuation of the use to which the determination applies would preclude conservation measures essential to the survival of any endangered species or threatened species. Such a withdrawal shall take effect 10 days after the date the Secretary provides notice of the withdrawal to the requester.

''(11) The Secretary may extend the period that applies under paragraph (5) by up to 180 days if seasonal considerations make a determination impossible within the period that would otherwise apply.''.

(e) NATIONAL SECURITY EXEMPTION.—Section 10 (16 U.S.C. 1539) is further amended by adding at the end the following:

''(l) NATIONAL SECURITY.—The President, after consultation with the appropriate Federal agency, may exempt any act or omission from the provisions of this Act if such exemption is necessary for national security.''.

(f) DISASTER DECLARATION AND PROTECTION.—Section 10 (16 U.S.C. 1539) is further amended by adding at the end the following:

''(m) DISASTER DECLARATION AND PROTECTION.—(1) The President may suspend the application of any provision of this Act in any area for which a major disaster is declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

''(2) The Secretary shall, within one year after the date of the enactment of the Threatened and Endangered Species Recovery Act of 2005, promulgate regulations regarding application of this Act in the event of an emergency (including circumstances other than a major disaster referred to in paragraph (1)) involving a threat to human health or safety or to property, including regulations—

''(A) determining what constitutes an emergency for purposes of this paragraph; and

''(B) to address immediate threats through expedited consideration under or waiver of any provision of this Act.''.

SEC. 13. PRIVATE PROPERTY CONSERVATION.

Section 13 (consisting of amendments to other laws, which have executed) is amended to read as follows:

''PRIVATE PROPERTY CONSERVATION

''SEC. 13. (a) IN GENERAL.—The Secretary may provide conservation grants (in this section referred to as 'grants') to promote the voluntary conservation of endangered species and threatened species by owners of private property and shall provide financial conservation aid (in this section referred to as 'aid') to alleviate the burden of conservation measures imposed upon private property owners by this Act. The Secretary may provide technical assistance when requested to enhance the conservation effects of grants or aid.

''(b) AWARDING OF GRANTS AND AID.—Grants to promote conservation of endangered species and threatened species on private property—

''(1) may not be used to fund litigation, general education, general outreach, lobbying, or solicitation;

''(2) may not be used to acquire leases or easements of more than 50 years duration or fee title to private property;

''(3) must be designed to directly contribute to the conservation of an endangered species or threatened species by increasing the species' numbers or distribution; and

''(4) must be supported by any private property owners on whose property any grant funded activities are carried out.

''(c) PRIORITY.—Priority shall be accorded among grant requests in the following order:

''(1) Grants that promote conservation of endangered species or threatened species on private property while making economically beneficial and productive use of the private property on which the conservation activities are conducted.

''(2) Grants that develop, promote, or use techniques to increase the distribution or population of an endangered species or threatened species on private property.

''(3) Other grants that promote voluntary conservation of endangered species or threatened species on private property.

''(d) ELIGIBILITY FOR AID.—(1) The Secretary shall award aid to private property owners who—

''(A) received a written determination under section 10(k) finding that the proposed use of private property would not comply with section 9(a); or

''(B) receive notice under section 10(k)(10) that a written determination has been withdrawn.

''(2) Aid shall be in an amount no less than the fair market value of the use that was proposed by the property owner if—

''(A) the owner has foregone the proposed use;

''(B) the owner has requested financial aid—

''(i) within 180 days of the Secretary's issuance of a written determination that the proposed use would not comply with section 9(a); or

''(ii) within 180 days after the property owner is notified of a withdrawal under section 10(k)(10); and

''(C) the foregone use would be lawful under State and local law and the property owner has demonstrated that the property owner has the means to undertake the proposed use.

''(e) DISTRIBUTION OF GRANTS AND AID.—(1) The Secretary shall pay eligible aid—

''(A) within 180 days after receipt of a request for aid unless there are unresolved questions regarding the documentation of the foregone proposed use or unresolved questions regarding the fair market value; or

''(B) at the resolution of any questions concerning the documentation of the foregone use established under subsection (f) or the fair market value established under subsection (g).

''(2) All grants provided under this section shall be paid on the last day of the fiscal year. Aid shall be paid based on the date of the initial request.

''(f) DOCUMENTATION OF THE FOREGONE USE.—Within 30 days of the request for aid, the Secretary shall enter into negotiations with the property owner regarding the documentation of the foregone proposed use through such mechanisms such as contract terms, lease terms, deed restrictions, easement terms, or transfer of title. If the Secretary and the property owner are unable to reach an agreement, then, within 60 days of the request for aid, the Secretary shall determine how the property owner's foregone use shall be documented with the least impact on the ownership interests of the property owner necessary to document the foregone use.

''(g) FAIR MARKET VALUE.—For purposes of this section, the fair market value of the foregone use of the affected portion of the private property, including business losses, is what a willing buyer would pay to a willing seller in an open market. Fair market value shall take into account the likelihood that the foregone use would be approved under State and local law. The fair market value shall be determined within 180 days of the documentation of the foregone use. The fair market value shall be determined jointly by 2 licensed independent appraisers, one selected by the Secretary and one selected by the property owner. If the 2 appraisers fail to agree on fair market value, the Secretary and the property owner shall jointly select a third licensed appraiser whose appraisal within an additional 90 days shall be binding on the Secretary and the private property owner. Within one year after the date of enactment of the Threatened and Endangered Species Recovery Act of 2005, the Secretary shall promulgate regulations regarding selection of the jointly selected appraisers under this subsection.

''(h) LIMITATION ON AID AVAILABILITY.—Any person receiving aid under this section may not receive additional aid under this section for the same foregone use of the same property and for the same period of time.

''(i) ANNUAL REPORTING.—The Secretary shall by January 15 of each year provide a report of all aid and grants awarded under this section to the Committee on Resources of the House of Representatives and the Environment and Public Works Committee of the Senate and make such report electronically available to the general public on the website required under section 14.''.

SEC. 14. PUBLIC ACCESSIBILITY AND ACCOUNTABILITY.

Section 14 (relating to repeals of other laws, which have executed) is amended to read as follows:

''PUBLIC ACCESSIBILITY AND ACCOUNTABILITY

''SEC. 14. The Secretary shall make available on a publicly accessible website on the Internet—

''(1) each list published under section 4(c)(1);

''(2) all final and proposed regulations and determinations under section 4;

''(3) the results of all 5-year reviews conducted under section 4(c)(2)(A);

''(4) all draft and final recovery plans issued under section 5(a), and all final recovery plans issued and in effect under section 4(f)(1) of this Act as in effect immediately before the enactment of the Threatened and Endangered Species Recovery Act of 2005;

''(5) all reports required under sections 5(e) and 16, and all reports required under sections 4(f)(3) and 18 of this Act as in effect immediately before the enactment of the Threatened and Endangered Species Recovery Act of 2005; and

''(6) data contained in the reports referred to in paragraph (5) of this section, and that were produced after the date of enactment of the Threatened and Endangered Species Recovery Act of 2005, in the form of databases that may be searched by the variables included in the reports.''.

SEC. 15. ANNUAL COST ANALYSES.

(a) ANNUAL COST ANALYSES.—Section 18 (16 U.S.C. 1544) is amended to read as follows:

''ANNUAL COST ANALYSIS BY UNITED STATES FISH AND WILDLIFE SERVICE

''SEC. 18. (a) IN GENERAL.—On or before January 15 of each year, the Secretary shall submit to the Congress an annual report covering the preceding fiscal year that contains an accounting of all reasonably identifiable expenditures made primarily for the conservation of species included on lists published and in effect under section 4(c).

''(b) SPECIFICATION OF EXPENDITURES.—Each report under this section shall specify—

''(1) expenditures of Federal funds on a species-by-species basis, and expenditures of

Federal funds that are not attributable to a specific species;

''(2) expenditures by States for the fiscal year covered by the report on a species-by-species basis, and expenditures by States that are not attributable to a specific species; and

''(3) based on data submitted pursuant to subsection (c), expenditures voluntarily reported by local governmental entities on a species-by-species basis, and such expenditures that are not attributable to a specific species.

''(c) ENCOURAGEMENT OF VOLUNTARY SUBMISSION OF DATA BY LOCAL GOVERNMENTS.—The Secretary shall provide a means by which local governmental entities may—

''(1) voluntarily submit electronic data regarding their expenditures for conservation of species listed under section 4(c); and

''(2) attest to the accuracy of such data.''.

(b) ELIGIBILITY OF STATES FOR FINANCIAL ASSISTANCE.—Section 6(d) (16 U.S.C. 1535(d)) is amended by adding at the end the following:

''(3) A State shall not be eligible for financial assistance under this section for a fiscal year unless the State has provided to the Secretary for the preceding fiscal year information regarding the expenditures referred to in section 16(b)(2).''.

SEC. 16. REIMBURSEMENT FOR DEPREDATION OF LIVESTOCK BY REINTRODUCED SPECIES.

The Endangered Species Act of 1973 is further amended—

(1) by striking sections 15 and 16;

(2) by redesignating sections 17 and 18 as sections 15 and 16, respectively; and

(3) by adding after section 16, as so redesignated, the following:

''REIMBURSEMENT FOR DEPREDATION OF LIVESTOCK BY REINTRODUCED SPECIES

''SEC. 17. (a) IN GENERAL.—The Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, may reimburse the owner of livestock for any loss of livestock resulting from depredation by any population of a species if the population is listed under section 4(c) and includes or derives from members of the species that were reintroduced into the wild.

''(b) ELIGIBILITY FOR AND AMOUNT.—Eligibility for, and the amount of, reimbursement under this section shall not be conditioned on the presentation of the body of any animal for which reimbursement is sought.

''(c) LIMITATION ON REQUIREMENT TO PRESENT BODY.—The Secretary may not require the owner of livestock to present the body of individual livestock as a condition of payment of reimbursement under this section.

''(d) USE OF DONATIONS.—The Secretary may accept and use donations of funds to pay reimbursement under this section.

''(e) AVAILABILITY OF APPROPRIATIONS.—The requirement to pay reimbursement under this section is subject to the availability of funds for such payments.''.

SEC. 17. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—The Endangered Species Act of 1973 is further amended by adding at the end the following:

''AUTHORIZATION OF APPROPRIATIONS

''SEC. 18. (a) IN GENERAL.—There are authorized to be appropriated to carry out this Act, other than section 8A(e)—

''(1) to the Secretary of the Interior to carry out functions and responsibilities of the Department of the Interior under this Act, such sums as are necessary for fiscal years 2006 through 2010; and

''(2) to the Secretary of Agriculture to carry out functions and responsibilities of the Department of the Interior with respect to the enforcement of this Act and the convention which pertain the importation of plants, such sums as are necessary for fiscal year 2006 through 2010.

''(b) CONVENTION IMPLEMENTATION.—There is authorized to be appropriated to the Secretary of the Interior to carry out section 8A(e) such sums as are necessary for fiscal years 2006 through 2010.''.

(b) CONFORMING AMENDMENT.—Section 8(a) (16 U.S.C. 1537(a)) is amended by striking ''section 15'' and inserting ''section 18''.

SEC. 18. MISCELLANEOUS TECHNICAL CORRECTIONS.

(a) INTERNATIONAL COOPERATION.—Section 8 (16 U.S.C. 1537) is amended—

(1) in subsection (a) in the first sentence by striking ''any endangered species or threatened species listed'' and inserting ''any species determined to be an endangered species or a threatened species''; and

(2) in subsection (b) in paragraph (1), by striking ''endangered species and threatened species listed'' and inserting ''species determined to be endangered species and threatened species''.

(b) MANAGEMENT AUTHORITY AND SCIENTIFIC AUTHORITY.—Section 8A (16 U.S.C. 1537a)) is amended—

(1) in subsection (a), by striking ''of the Interior (hereinafter in this section referred to as the 'Secretary')'';

(2) in subsection (d), by striking ''Merchant Marine and Fisheries'' and inserting ''Resources''; and

(3) in subsection (e)—

(A) in paragraph (1), by striking ''of the Interior (hereinafter in this subsection referred to as the 'Secretary')''; and

(B) by striking paragraph (3) and redesignating paragraph (4) as paragraph (3).

(c) PROHIBITED ACTS.—Section 9 (16 U.S.C. 1538) is amended—

(1) in subsection (a)—

(A) in paragraph (1), in the matter preceding subparagraph (A), by striking ''of this Act, with respect to any endangered species of fish or wildlife listed pursuant to section 4 of this Act'' and inserting '', with respect to any species of fish or wildlife determined to be an endangered species under section 4'';

(B) in paragraph (1)(G), by striking ''threatened species of fish or wildlife listed pursuant to section 4 of this Act'' and inserting ''species of fish or wildlife determined to be a threatened species under section 4'';

(C) in paragraph (2), in the matter preceding subparagraph (A) by striking ''of this Act, with respect to any endangered species of plants listed pursuant to section 4 of this Act'' and inserting '', with respect to any species of plants determined to be an endangered species under section 4''; and

(D) in paragraph (2)(E), by striking ''listed pursuant to section 4 of this Act'' and inserting ''determined to be a threatened species under section 4'';

(2) in subsection (b)—

(A) by striking ''(1)'' before ''SPECIES'' and inserting ''(1)'' before the first sentence;

(B) in paragraph (1), in the first sentence, by striking ''adding such'' and all that follows through '': *Provided*, That'' and inserting ''determining such fish or wildlife species to be an endangered species or a threatened species under section 4, if''; and

(C) in paragraph (1), in the second sentence, by striking ''adding such'' and all that follows through ''this Act'' and inserting ''determining such fish or wildlife species to be an endangered species or a threatened species under section 4'';

(3) in subsection (c)(2)(A), by striking ''an endangered species listed'' and inserting ''a species determined to be an endangered species'';

(4) in subsection (d)(1)(A), by striking clause (i) and inserting the following: ''(i) are not determined to be endangered species or threatened species under section 4, and'';

(5) in subsection (e), by striking clause (1) and inserting the following: ''(1) are not determined to be endangered species or threatened species under section 4, and''; and

(6) in subsection (f)—

(A) in paragraph (1), in the first sentence, by striking clause (A) and inserting the following: ''(A) are not determined to be endangered species or threatened species under section 4, and''; and

(B) by striking ''Secretary of the Interior'' each place it appears and inserting ''Secretary''.

(d) HARDSHIP EXEMPTIONS.—Section 10(b) (16 U.S.C. 1539(b)) is amended—

(1) in paragraph (1)—

(A) by striking ''an endangered species'' and all that follows through ''section 4 of this Act'' and inserting ''an endangered species or a threatened species and the subsequent determination that the species is an endangered species or a threatened species under section 4'';

(B) by striking ''section 9(a) of this Act'' and inserting ''section 9(a)''; and

(C) by striking ''fish or wildlife listed by the Secretary as endangered'' and inserting ''fish or wildlife determined to be an endangered species or threatened species by the Secretary''; and

(2) in paragraph (2)—

(A) by inserting ''or a threatened species'' after ''endangered species'' each place it appears; and

(B) in subparagraph (B), by striking ''listed species'' and inserting ''endangered species or threatened species''.

(e) PERMIT AND EXEMPTION POLICY.—Section 10(d) (16 U.S.C. 1539(d)) is amended—

(1) by inserting ''or threatened species'' after ''endangered species''; and

(2) by striking ''of this Act''.

(f) PRE-ACT PARTS AND SCRIMSHAW.—Section 10(f) (16 U.S.C. 1539(f)) is amended—

(1) by inserting after ''(f)'' the following: ''PRE-ACT PARTS AND SCRIMSHAW.—''; and

(2) in paragraph (2), by striking ''of this Act'' each place it appears.

(g) BURDEN OF PROOF IN SEEKING EXEMPTION OR PERMIT.—Section 10(g) (16 U.S.C. 1539(g)) is amended by inserting after ''(g)'' the following: ''BURDEN OF PROOF IN SEEKING EXEMPTION OR PERMIT.—''.

(h) ANTIQUE ARTICLES.—Section 10(h)(1)(B) (16 U.S.C. 1539(h)(1)(B)) is amended by striking ''endangered species or threatened species listed'' and inserting ''species determined to be an endangered species or a threatened species''.

(i) PENALTIES AND ENFORCEMENT.—Section 11 (16 U.S.C. 1540) is amended in subsection (e)(3), in the second sentence, by striking ''Such persons'' and inserting ''Such a person''.

(j) SUBSTITUTION OF GENDER-NEUTRAL REFERENCES.—

(1) ''SECRETARY'' FOR ''HE''.—The following provisions are amended by striking ''he'' each place it appears and inserting ''the Secretary'':

(A) Paragraph (4)(C) of section 4(b), as redesignated by section 5(b)(2) of this Act.

(B) Paragraph (5)(B)(ii) of section 4(b), as redesignated by section 5(b)(2) of this Act.

(C) Section 4(b)(7) (16 U.S.C. 1533(b)(7)), in the matter following subparagraph (B).

(D) Section 6 (16 U.S.C. 1535).

(E) Section 8(d) (16 U.S.C. 1537(d)).

(F) Section 9(f) (16 U.S.C. 1538(f)).

(G) Section 10(a) (16 U.S.C. 1539(a)).

(H) Section 10(b)(3) (16 U.S.C. 1539(b)(3)).

(I) Section 10(d) (16 U.S.C. 1539(d)).

(J) Section 10(e)(4) (16 U.S.C. 1539(e)(4)).

(K) Section 10(f)(4), (5), and (8)(B) (16 U.S.C. 1599(f)(4), (5), (8)(B)).

(L) Section 11(e)(5) (16 U.S.C. 1540(e)(5)).

(2) ''PRESIDENT'' FOR ''HE''.—Section 8(a) (16 U.S.C. 1537(a)) is amended in the second sentence by striking ''he'' and inserting ''the President''.

(3) ''SECRETARY OF THE INTERIOR'' FOR ''HE''.—Section 8(b)(3) (16 U.S.C. 1537(b)(3)) is amended by striking ''he'' and inserting ''the Secretary of the Interior''.

(4) ''PERSON'' FOR ''HE''.—The following provisions are amended by striking ''he'' each place it appears and inserting ''the person'':

(A) Section 10(f)(3) (16 U.S.C. 1539(f)(3)).

(B) Section 11(e)(3) (16 U.S.C. 1540(e)(3)).

(5) ''DEFENDANT'' FOR ''HE''.—The following provisions are amended by striking ''he'' each place it appears and inserting ''the defendant''.

(A) Section 11(a)(3) (16 U.S.C. 1540(a)(3)).

(B) Section 11(b)(3) (16 U.S.C. 1540(b)(3)).

(6) REFERENCES TO ''HIM''.—

(A) Section 4(c)(1) (16 U.S.C. 1533(c)(1)) is amended by striking ''him or the Secretary of Commerce'' each place it appears and inserting ''the Secretary''.

(B) Paragraph (6) of section 4(b) (16 U.S.C. 1533(b)), as redesignated by section 5(b)(2) of this Act, is further amended in the matter following subparagraph (B) by striking ''him'' and inserting ''the Secretary''.

(C) Section 5(k)(2), as redesignated by section 9(a)(1) of this Act, is amended by striking ''him'' and inserting ''the Secretary''.

(D) Section 7(a)(1) (16 U.S.C. 1536(a)(1)) is amended in the first sentence by striking ''him'' and inserting ''the Secretary''.

(E) Section 8A(c)(2) (16 U.S.C. 1537a(c)(2)) is amended by striking ''him'' and inserting ''the Secretary''.

(F) Section 9(d)(2)(A) (16 U.S.C. 1538(d)(2)(A)) is amended by striking ''him'' each place it appears and inserting ''such person''.

(G) Section 10(b)(1) (16 U.S.C. 1539(b)(1)) is amended by striking ''him'' and inserting ''the Secretary''.

(7) REFERENCES TO ''HIMSELF OR HERSELF''.—Section 11 (16 U.S.C. 1540) is amended in subsections (a)(3) and (b)(3) by striking ''himself or herself'' each place it appears and inserting ''the defendant''.

(8) REFERENCES TO ''HIS''.—

(A) Section 4(g)(1), as redesignated by section 8(1) of this Act, is amended by striking ''his'' and inserting ''the''.

(B) Section 6 (16 U.S.C. 1535) is amended—

(i) in subsection (d)(2) in the matter following clause (ii) by striking ''his'' and inserting ''the Secretary's''; and

(ii) in subsection (e)(1), as designated by section 10(3)(A) of this Act, by striking ''his periodic review'' and inserting ''periodic review by the Secretary''.

(C) Section 7(a)(3) (16 U.S.C. 1536(a)(3)) is amended by striking ''his'' and inserting ''the applicant's''.

(D) Section 8(c)(1) (16 U.S.C. 1537(c)(1)) is amended by striking ''his'' and inserting ''the Secretary's''.

(E) Section 9 (16 U.S.C. 1538) is amended in subsection (d)(2)(B) and subsection (f) by striking ''his'' each place it appears and inserting ''such person's''.

(F) Section 10(b)(3) (16 U.S.C. 1539(b)(3)) is amended by striking ''his'' and inserting ''the Secretary's''.

(G) Section 10(d) (16 U.S.C. 1539(d)) is amended by striking ''his'' and inserting ''the''.

(H) Section 11 (16 U.S.C. 1540) is amended—

(i) in subsection (a)(1) by striking ''his'' and inserting ''the Secretary's'';

(ii) in subsections (a)(3) and (b)(3) by striking ''his or her'' each place it appears and inserting ''the defendant's'';

(iii) in subsection (d) by striking ''his'' and inserting ''the officer's or employee's'';

(iv) in subsection (e)(3) in the second sentence by striking ''his'' and inserting ''the person's''; and

(v) in subsection (g)(1) by striking ''his'' and inserting ''the person's''.

SEC. 19. CLERICAL AMENDMENT TO TABLE OF CONTENTS.

The table of contents in the first section is amended—

(1) by striking the item relating to section 5 and inserting the following:

''Sec. 5. Recovery plans and land acquisition.''

; and

(2) by striking the items relating to sections 13 through 17 and inserting the following:

''Sec. 13. Private property conservation.
''Sec. 14. Public accessibility and accountability.
''Sec. 15. Marine Mammal Protection Act of 1972.
''Sec. 16. Annual cost analysis by United States Fish and Wildlife Service.
''Sec. 17. Reimbursement for depredation of livestock by reintroduced species.
''Sec. 18. Authorization of appropriations.''.

SEC. 20. CERTAIN ACTIONS DEEMED IN COMPLIANCE.

(a) ACTIONS DEEMED IN COMPLIANCE.—During the period beginning on the date of the enactment of this Act and ending on the date described in subsection (b), any action that is taken by a Federal agency, State agency, or other person and that complies with the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.) is deemed to comply with sections 7(a)(2) and 9(a)(1)(B) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)(2), 1538(a)(1)(B)) (as amended by this Act) and regulations issued under section 4(d) of such Act (16 U.S.C. 1533(d)).

(b) TERMINATION DATE.—The date referred to in subsection (a) is the earlier of—

(1) the date that is 5 years after the date of the enactment of this Act; and

(2) the date of the completion of any procedure required under subpart D of part 402 of title 50, Code of Federal Regulations, with respect to the action referred to in subsection (a).

(c) LIMITATION ON APPLICATION.—This section shall not affect any procedure pursuant to part 402 of title 50, Code of Federal Regulations, that is required by any court order issued before the date of the enactment of this Act.

The CHAIRMAN. No amendment to that amendment is in order except those printed in House Report 109–240. 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 109–240.

AMENDMENT NO. 1 OFFERED BY MR. POMBO

Mr. POMBO. Mr. Chairman, I offer an amendment made in order under the rule.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. POMBO:

Page 2, strike line 24, and all that follows through page 3, line 18, and insert the following:

''(C) In carrying out subparagraph (B), the Secretary shall undertake necessary measures to assure—

''(i) compliance with guidance issued under section 515 of the Treasury and General Government Appropriations Act of 2001 (Public Law 106–554; 114 Stat. 2763A–171) by the Director of the Office of Management and Budget and the Secretary;

''(ii) data consists of empirical data; or

''(iii) data is found in sources that have been subject to peer review by qualified individuals recommended by the National Academy of Sciences to serve as independent reviewers for a covered action in a generally acceptable manner.''.

Page 4, strike lines 3 through 11, and redesignate the subsequent subsection accordingly.

Page 4, after line 14, insert the following:

(d) CONFORMING AMENDMENT.—Section 3 (16 U.S.C. 1532) is further amended in paragraph (18), as redesignated by subsection (a) of this section, by striking ''Trust Territory of the Pacific Islands'' and inserting ''Commonwealth of the Northern Mariana Islands''.

Page 6, after line 24, insert the following:

(d) ANALYSIS OF IMPACTS AND BENEFITS.—Section 4(a) (16 U.S.C. 1533(a)), as amended by section 4(a) of this Act, is further amended by striking paragraph (3) and inserting the following:

''(4)(A) The Secretary shall, concurrently with making a determination under paragraph (1) that a species is an endangered species or a threatened species, prepare an analysis of—

''(i) the economic impact and benefit of that determination;

''(ii) the impact and benefit on national security of that determination; and

''(iii) any other relevant impact and benefit of that determination.

''(B) Nothing in this paragraph shall delay the Secretary's decision or change the criteria used in making determinations under paragraph (1).''.

Page 7, line 3, before the period insert '', and redesignate paragraph (4) (as added by section 4(d) of this Act) as paragraph (3)''.

Page 16, line 14, insert ''(A)'' after ''(2)''.

Page 16, after line 19, insert the following:

''(B) Nothing in this paragraph shall be construed to affect the authority of the Secretary to issue any emergency regulation pursuant to section 4(b)(6).

Page 19, line 4, after ''costs'' insert '', including direct, indirect and cumulative costs,''.

Page 20, line 5, strike ''by''.

Page 24, beginning at line 3, strike ''TO ENSURE CONSISTENCY WITH DEVELOPMENT PLAN''.

Page 27, line 24, after ''agreement'' insert ''from funds appropriated under section 18(a)(1)''.

Page 33, after line 20, insert the following:

''(F) A species conservation contract agreement may list other Federal program payments that incidentally contribute to conservation of a listed species. The head of a Federal agency shall not use the payments for the purposes of implementing the species conservation contract agreement.

Page 39, strike line 23 and all that follows through page 40, line 2, and insert the following:

''(i) addresses or affects species that are determined to be endangered species or threatened species and the species were not addressed or the effects were not considered previously in the agreement; or

Page 43, line 12, strike '', under section 4'' and insert ''determined''.

Page 43, line 19, strike the close quotation mark and the following period, and after line 19, insert the following:

''(6) This subsection shall not apply to any agency action that may affect any species for which a permit is issued under section 10 for other than scientific purposes, if the action implements or is consistent with any conservation plan or agreement incorporated by reference in the permit.''.

Page 49, beginning at line 15, strike ''offered by the Secretary pursuant to paragraph (2)(B)'' and insert ''required''.

Page 49, line 17, after ''taking'' insert ''or otherwise comply with the requirements of paragraph (2)(B)''.

Page 49, line 18, after ''proportional'' insert ''in extent''.

Page 53, line 22, strike ''requester'' and insert ''requestor''.

Page 56, line 14, strike ''10'' and insert ''5''.

Page 56, beginning at line 15, strike ''date the Secretary provides notice of the withdrawal to the requestor'' and insert ''date the requestor receives from the Secretary, by certified mail, notice of the withdrawal''.

Page 56, line 19, insert ''or biological'' before ''considerations''.

Page 57, line 21, strike ''immediate'' and insert ''imminent''.

Page 57, after line 23, insert the following:

(g) EXEMPTION FROM LIABILITY FOR TAKE OF LISTED AQUATIC SPECIES.—Section 10 (16 U.S.C. 1539) is amended by adding at the end the following:

''(n) EXEMPTION FROM LIABILITY FOR TAKE OF LISTED AQUATIC SPECIES.—The operator of a water storage reservoir, water diversion structure, canal, or other artificial water delivery facility shall not be in violation of section 9(a) by reason of any take of any aquatic species listed under section 4(c) that results from predation, competition, or other adverse effects attributable to recreational fishing programs managed by a State Agency in a river basin in which the water storage reservoir, water diversion structure, canal, or other artificial water delivery facility is located.''.

Page 60, line 19, strike ''180'' and insert ''270''.

Page 60, beginning at line 20, strike ''unresolved questions regarding the documentation of the foregone proposed use or''.

Page 60, beginning at line 25, strike ''the documentation of the foregone use established under subsection (f) or''.

Page 61, line 10, after ''mechanisms'' insert ''that would benefit the species''.

Page 61, line 15, after ''documented'' insert ''to benefit the species''.

Page 61, line 17, after ''use'' insert '', which shall not include transfer of title''.

Page 62, beginning at line 7, strike ''binding on the Secretary and the private property owner'' and insert ''the best and final offer by the Secretary''.

Page 62, line 15, after ''for'' insert ''essentially''.

Page 66, strike lines 21 through 26 and insert the following:

''(d) AUTHORIZATION OF APPROPRIATIONS.—Payments under this section are subject to appropriations.''.

At the end of the bill add the following:

SEC. 21. CONSOLIDATION OF PROGRAMS.

(a) TRANSFER.—The President shall, by not later than one year after the date of enactment of this Act, transfer to the Secretary of the Interior all duties, resources, and responsibilities of the Secretary of Commerce under the Endangered Species Act of 1973 existing immediately before the enactment of this Act.

(b) CONFORMING AMENDMENT.—

(1) AMENDMENT.—Section 3 (16 U.S.C. 1532) is further amended in paragraph (15) (relating to the definition of ''Secretary'') by striking ''or the Secretary of Commerce as program responsibilities are vested pursuant to the provisions of Reorganization Plan Numbered 4 of 1970''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect one year after the date of the enactment of this Act.

(c) REPORT.—No later than 180 days after the date of enactment of this Act, the Secretary of the Interior and the Secretary of Commerce shall jointly submit to the Committee on Resources and the Committee on Appropriations of the House of Representatives, and the Committee on Environment and Public Works and the Committee on Appropriations of the Senate, a detailed description of the process by which the transfer of functions under the amendment made by subsection (a) shall be implemented.

(d) PRIOR DETERMINATIONS AND ACTIONS NOT AFFECTED.—This section shall not affect any determination or action by the Secretary of Commerce made or taken, respectively, under the Endangered Species Act of 1973 before the date of the enactment of this Act, except that such determinations and actions shall be treated as determinations and actions, respectively, of the Secretary of the Interior.

SEC. 22. REVIEW OF PROTECTIVE REGULATIONS.

The Secretary of the Interior shall—

(1) review regulations issued before the date of the enactment of this Act pursuant to section 4(d) of the Endangered Species Act of 1973, in order to determine whether revision of such regulations would be desirable in order to facilitate and improve cooperation with the States pursuant to section 6 of such Act; and

(2) report to the Committee on Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate regarding the findings of such review.

SEC. 23. PROVISION OF INFORMATION REGARDING COMPLIANCE COSTS OF FEDERAL POWER ADMINISTRATIONS.

(a) CUSTOMER BILLINGS.—The Administrator of the Bonneville Power Administration, the Western Area Power Administration, the Southwestern Power Administration, and the Southeastern Power Administration shall each include in monthly firm power customer billings sent to each customer information identifying and reporting such customer's share of the Federal power marketing and generating agencies' direct and indirect costs incurred by such administration related to compliance with the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) and activities related to such Act.

(b) DIRECT COSTS.—In identifying and reporting direct costs, each Administrator shall include Federal agency obligations related to study-related costs, capital, operation, maintenance, and replacement costs, and staffing costs.

(c) INDIRECT COSTS.—In identifying and reporting indirect costs, each Administrator shall include foregone generation and replacement power costs.

(d) COORDINATION.—Each Administrator shall coordinate identification of costs under this subsection with the appropriate Federal power generating agencies.

SEC. 24. SURVEY OF BLM LANDS AND FOREST SERVICE LANDS FOR MANAGEMENT FOR RECOVERY OF LISTED SPECIES.

(a) IN GENERAL.—Not later than 2 years after the date of the enactment of this Act, the Secretary of the Interior shall—

(1) survey all lands under the administrative jurisdiction of the Bureau of Land Management and all lands under the administrative jurisdiction Forest Service immediately before the enactment of this Act, for the purpose of assessing the value of such lands for management for the recovery of any species included in a list published under section 4(c) of the Endangered Species Act of 1973 and for addition to the National Wildlife Refuge System; and

(2) make recommendations to the Congress for managing any such lands as are appropriate as part of the National Wildlife Refuge System.

(b) LIMITATION ON TRANSFERS.—The Secretary of the Interior may not transfer administrative jurisdiction pursuant to any recommendation under subsection (a)(2) except as authorized by a statute enacted after the date of the enactment of this Act.

SEC. 25. RELATIONSHIP BETWEEN SECTION 7 CONSULTATION AND INCIDENT TAKE AUTHORIZATION UNDER MARINE MAMMAL PROTECTION ACT OF 1972.

Consultation under section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536) is equivalent to a section 101 incidental take authorization required under the Marine Mammal Protection Act of 1972 (16 U.S.C. 1631 et seq.) for receiving dock building permits.

The CHAIRMAN. Pursuant to House Resolution 470, the gentleman from California (Mr. POMBO) and the gentleman from West Virginia (Mr. RAHALL) each will control 10 minutes.

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

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

Mr. Chairman, the manager's amendment makes a number of technical changes to clarify certain provisions and address issues concerning science, the definition of ''jeopardy,'' consolidation of ESA-related programs, and review of protective regulations. It allows actions authorized under an approved section 10 permit to be carried out without duplicative consultation. It prevents water stakeholders from being held accountable for impacts due to State actions. It requires the four Power Marketing Administrations to include ESA costs in their monthly billing statements. It directs the Secretary of the Interior to survey certain Federal lands to assess their value for a report back to Congress. It clarifies conflicting statutes to make ESA the governing statutory authority when receiving a dock-building permit.

That is the short version of what is included in the manager's amendment.

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

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

Mr. Chairman, the manager's amendment makes significant changes in the bill as it was reported from the Committee on Resources. These changes are likely to result in more species extinctions at greater loss of taxpayer dollars.

The pending legislation will increase direct spending in the discretionary funding law, which we will get into in general debate, and it could rise to more than $600 million a year, $235 million more per year than we are spending today for species conservation, according to the Congressional Budget Office.

Let me make one point perfectly clear here: the manager's amendment is not something I agreed to in my discussions with the gentleman from California (Chairman POMBO). To say that I agree with 90 percent of this bill is not an accurate description, or is an unfair way to paint the matter.

One of the points that we had reached agreement on was that there was to be a recovery-based standard of determining when Federal agency actions jeopardize the continued existence of a species. The manager's amendment drops this crucial provision. It cripples it.

While I was willing to eliminate critical habitat, it was only on the condition that we ensure that there were adequate provisions in place to encourage recovery. Without this definition, the bill will not promote recovery. We will likely see more endangered and threatened species. It is upon that ground that I oppose this manager's amendment, as well as the loosened compensation standards put in order by the manager's amendment.

It eliminates the bill's requirement that appraisals determining the market value of foregone use of property are binding on both the Secretary and the property owner. Instead, the appraisal is binding only on the Secretary, and the property owner may then go to court to seek additional compensation. That makes the current pending legislation worse, and it will increase the cost of this entitlement program to property owners and it will increase that cost to the American taxpayer.

Mr. Chairman, I yield 3 minutes to the gentleman from Maine (Mr. ALLEN).

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

Mr. Chairman, I rise to deal with the section of the manager's amendment that covers the manatees. Buried in this manager's amendment in dry language is a contest between Florida developers on the one hand and Florida manatees on the other. In this Republican Congress, guess who wins, the developers or the manatees? It is not even close.

This is an unprecedented move to exempt a single type of activity, dockbuilding, from a key provision of the Marine Mammal Protection Act. After losing in court, some boaters and marine contractors have come to Congress asking for special favors so they can continue their development without addressing the impacts on the endangered manatee. It is not only bad policy, but it also undermines recovery efforts by the State of Florida and the Fish and Wildlife Service.

By way of background, this section would allow those applying for dock permits to simply prove that their activities would not, quote-unquote, jeopardize, would not jeopardize the continued existence of endangered and threatened marine mammal species as mandated by the Endangered Species Act, section 7. Today, under existing law they must prove that their activities would have only a negligible impact on these species as mandated by the Marine Mammal Protection Act, section 101. This simple change in wording lowers our national standard for protection of this well-loved species. Why? Because no single dock is likely to jeopardize manatees, but a whole succession of docks is likely to do exactly that. This amendment clearly targets manatees in Florida, but we really have no idea what kind of precedent or implications this would have for other critically endangered marine mammals.

Now, it did not take long for the developers to get here. They lost a lawsuit on July 13, 2005, against the Fish and Wildlife Service in which the court found that the Marine Mammal Protection Act does in fact apply to dockbuilding activities that would lead to incidental take of marine mammals, and specifically manatees in Florida's inland waters. This amendment, therefore, is rushed into this particular bill, just part of the manager's amendment; it would undermine the process that has gone on for several years that the State of Florida and the Fish and Wildlife Service have engaged in to recover manatees in Florida. It would completely short-circuit the progress made by the State and those Federal agencies.

Finally, the minority and majority have already reached agreements and passed a version of the Marine Mammal Protection Act out of the Committee on Resources, and this amendment flies directly in the face of that process.

So here is the situation: Florida developers are not pleased by a court case in July. They rush in here, they get a provision in this bill to make sure that they win and the Florida manatees lose. Bad policy, bad politics.

Mr. RAHALL. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. HINCHEY).

Mr. HINCHEY. Mr. Chairman, I thank the gentleman for yielding me this time. The interesting thing about the manager's amendment is that it takes a very bad bill and makes it even worse.

I just want to focus on one aspect of this legislation which I think would be amusing in some sense if it were not for the fact that it is an example of a kind of cynical hypocrisy in those people who call themselves fiscally conservative. The bill guts the Endangered Species Act, there is no question about that, and all the protections that are involved there; but then it creates a whole new government giveaway program for some of the Nation's richest landowners and property owners. What this bill does is add insult to injury.

If you think that you are a responsible fiscal conservative, if you do not want to create a big new government giveaway program, then you should be adamantly opposed to this legislation. You might want to even cast aside the environmental aspects of it, because if you look at the monetary implications of this and the budgetary implications of this bill, it is going to create an even bigger budget deficit in the context of this huge giveaway program.

People are using here more and more frequently the devastating impact of the two hurricanes. They want to sell off the national parks, they want to remove the safety net for millions of Americans who rely upon government services, and now they are going to make it even more difficult for this Congress to provide the kind of programs and assistance that are needed in terms of health care, education, a variety of things by passing a piece of legislation that builds an even bigger budget deficit by creating a whole new giveaway program, a new entitlement program for some of the wealthiest people in the country, some of the biggest landowners in the country.

All they have to do is come here under this legislation, just to ask for it, and it will be given to them. If you really want to conserve the fiscal integrity of this process, please vote against this bill.

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

I look forward to the gentleman's opposition to the highway bill and any new purchases of land, to the wildlife refuge system, to the park system, or any other thing that we spend money on, because he sees it as a big giveaway, a big government giveaway system.

Again, what the underlying bill does is if you step in and take habitat from a private property owner and you tell them that you restrict them and you tell them they cannot use part of their property, then we set up a system of incentives and grants.

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But, if in the end, the Secretary says your property is necessary for the recovery of an endangered species, therefore you cannot use it, we compensate them for that and we pay them for it. If we build a highway across somebody's property, even though that may increase the value of the rest of the property, we pay them for it. If we take part of their property for a wildlife refuge, even though that may increase the value of the rest of their property, we pay them for it. But, if we take their property for endangered species habitat, we tell them, you are out of luck.

Now I have guys coming down here saying, this is a big, new giveaway system, that we are going to give away things to people. No. This is a big takeaway. You are taking away from them. You have been doing it for 30 years. Now it is time to pay for it. You are taking land away from people. Every little small farmer, rancher across the country, every homeowner across the country who has had their property taken away from them should

be compensated for it. You are taking away their land. There is nothing wrong with that.

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

Mr. POMBO. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, when the Contract With America was written, this provision was scored by CBO at $3.2 billion; $3.2 billion.

Mr. POMBO. Mr. Chairman, reclaiming my time, this provision was not in the Contract With America. Nobody seems to be constrained by the truth here. This is a brand-new way of dealing with compensating property owners whose land is taken. CBO scored this at $10 million. This is a brand-new way of dealing with a very real problem and assuring some kind of protection to my property owners and your property owners.

Mr. Chairman, it was just a couple of weeks ago that the Supreme Court came out with a decision where this Congress stood up and said, you cannot use eminent domain to take away private property, to take someone's house away from them and give it to another individual. And all of you ran down on the floor and said you were all in support of that.

We are going to stop the government from being able to use eminent to take away somebody's house and give it to somebody else. But, under that provision, you have to pay them for their house. Under current law, you do not have to pay when you steal somebody's property for declared habitat at this time. You guys are all fine with that. Is that because we are talking about farmers and ranchers? Is that why you do not want to pay them? But when we are talking about somebody's house, all of a sudden you want to pay them? I mean, you guys have no consistency in this whatsoever.

I believe if you take away somebody's private property, you should have to pay them for it, and that is what we are trying to do in this underlying bill. I know that some of my colleagues are just philosophically opposed to that, and God love you. But the fact of the matter is, if you take away somebody's private property, you ought to have to pay for it.

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

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

Mr. FARR. Mr. Chairman, when you do take, meaning you have no value left, then you have just compensation, was the Supreme Court decision.

Mr. POMBO. Mr. Chairman, reclaiming my time, that is not what the Constitution says. The Constitution says, nor shall private property be taken for a public use without just compensation. That is what it says. It does not say the government can step in and take 90 percent of your value and then it is okay; it does not say they can take away 30 percent of your value and that is okay.

Is the gentleman going to oppose the highway bill because we compensate people when we take their land away for a highway, even though we do not take 100 percent of the use? Why is it okay in that instance, but it is not okay when it comes to protecting habitat?

You guys talk big about wanting to protect habitat and protect species, but 90 percent of the habitat for endangered species is on private property. The only way you are going to recover species is if you bring in the property owners and have them be part of the solution. You are stopping that from happening right now under current law and in the substitute. You are wrong on this one.

We have to pay when you take away somebody's private property. That is what we have to do. That is what is in the underlying bill. I am sorry if you have a philosophical problem with paying for what you are taking.

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

Mr. RAHALL. Mr. Chairman, I yield 30 seconds to the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Chairman, the part that I have trouble with is that we did not authorize any new money to fund this. You just said, take it out of the Interior Appropriations bill. Well, I want to tell you, we have not funded the Endangered Species Act properly under this administration, and if there is not any money, it is going to have to come out of somebody else's hide. It is going to be the Fish and Wildlife Service, it is going to be the Park Service; somebody is going to have to fund this, and it is going to cost a lot more than $10 million a year. That is laughable.

Mr. POMBO. Mr. Chairman how much time remains?

The CHAIRMAN. The gentleman from California (Mr. POMBO) has 3½ minutes remaining; the gentleman from West Virginia (Mr. RAHALL) has 2 minutes remaining.

Mr. POMBO. Mr. Chairman, I yield myself 30 seconds to say, this is another area where you guys are just not consistent. One of you comes down and beats us up because we are spending too much money about this massive increase in spending under this bill. Somebody else comes down and says, you do not fully fund endangered species under this bill. Either we spend too much or we do not spend enough. You cannot have it both ways. Either we spend too much or we do not spend enough, but you cannot keep coming down here and trying to make both arguments.

Mr. RAHALL. Mr. Chairman, who has the right to close?

The CHAIRMAN. The gentleman from West Virginia (Mr. RAHALL) has the right to close.

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

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

Mr. Chairman, I say to my friend from West Virginia, I appreciate all the work that he and his staff put into this bill. This was an important thing for us to go through, and I think that we produced a good bill at the end of that.

I know that there are issues in the underlying bill that we disagree on, and we probably always will. I will tell the gentleman, as we continue to work forward, I will continue to work with the gentleman as this bill moves through the process, continue to work with the gentleman and try to work out whatever differences that still exist under the bill.

The gentleman from West Virginia operated under good faith with me, I believe I did the same thing with the gentleman throughout this entire process, and I pledge to the gentleman that we will continue to work together to produce the best possible bipartisan bill we can to deliver to the President's desk.

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

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

Mr. Chairman, I say to my chairman, I appreciate his concluding comments there and, as I have said all along, we have negotiated in good faith, and I do want to continue that relationship that we have. Maybe we can still work on this bill together; I hope we can. But we will see as the process goes forward.

Mr. Chairman, how much time do I have left?

The CHAIRMAN. The gentleman has 1½ minutes remaining.

Mr. RAHALL. Mr. Chairman, I yield 1 minute to the gentleman from New York (Mr. BOEHLERT).

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

Mr. BOEHLERT. Mr. Chairman, I would just like to correct a couple of things. First of all, this is mandatory spending we are talking about. Secondly, we do not allow the taxpayer protection in this bill that is allowed in highway cases. That is important to distinguish between the two.

Mr. Chairman, we are all in agreement. There is broad and justifiable consensus that the act is overdue for reform, but reforming the law should not be a euphemism for gutting the law, and that is exactly what the bill would do.

The list of areas of disagreement are very strong, but I would also point out that we in the substitute bill embrace many of the provisions in the base bill because they need to be addressed in a responsible way and, in many cases, we take the exact language. But section 13 is totally unacceptable. That is the big controversy; opening up an open-ended entitlement, putting the taxpayers at great risk.

I urge opposition to the base bill.

Mr. Chairman, I rise in opposition to the bill. I have no quarrel with the stated purpose of the bill—to reform the Endangered Species Act. Chairman POMBO is correct, there is broad and justifiable consensus that the Act is overdue for reform.

But "reforming" the law should not be a euphemism for "gutting" the law, and that's what this bill would do. I urge my colleagues to look beyond the descriptions of the bill and to examine the bill itself.

The most advertised feature of the bill is that it gets rid of the current "critical habitat" provisions of the law and replaces the habitat requirements with flexible, comprehensive, science-based "recovery plans." Sounds pretty good. And it would be pretty good if that were a full description of what the bill did. But what the sponsors have obscured is that, under the bill, the recovery plans are utterly unenforceable. No one ever has to abide by them. Not only that, the plans will be written through a process that guarantees delay, but does not guarantee that the best science will be used.

So is there a way to get rid of the current "critical habitat" burdens and to use recovery plans without weakening the law? Of course there is. And our Bipartisan Substitute shows how. We eliminate all the provisions of current law that require critical habitat designations just as in H.R. 3824, but we make recovery plans enforceable and we ensure that they have strong scientific basis. That's how you get real reform while still protecting real species.

It's not impossible to balance the need for reform with the need to protect species. But instead, we have a bill before us that is balanced in its rhetoric, but not in its effect.

The bill weakens just about every feature of law designed to protect species—for example, the review of federal actions to make sure they do not unduly harm species.

Now I am not trying to suggest that H.R. 3824 is all bad news. In fact, many of its provisions—the incentives for landowners to protect species, the public information requirements, the requirements to better involve the states—are largely improvements to the law. That's why our Substitute includes all those provisions, often in language identical to that in H.R. 3824. So we commend the Resources Committee for so many of the bill's provisions and we embrace them.

But there is one provision of H.R. 3824 that our Substitute does not include at all. And that's Section 13, which creates an open-ended entitlement that will open the federal treasury to provide mandatory payments to developers. This is a bad idea on philosophical and legal grounds, but this is an especially bad time to expose taxpayers to such a burden.

We don't have to endanger taxpayers in order to reform the Endangered Species Act. We don't have to make it easier for species to become extinct to reform the Endangered Species Act. All we need to do to reform the Act is to make sure that common sense isn't trumped by ideology.

I urge my colleagues of defeat H.R. 3824, which just waves the banner of reform to distract attention from its actual content. Vote instead for real reform. Vote for the Bipartisan Substitute.

Mr. RAHALL. Mr. Chairman, I yield the balance of my time to the gentleman from California (Mr. GEORGE MILLER).

Mr. GEORGE MILLER of California. Mr. Chairman, I thank the gentleman for yielding me this time.

I just want to say that when the gentleman talks about a taking, that is not what his legislation does. All that has to happen is that a landowner proposes a use for his property, and if that use is ruled as a taking, the landowner gets compensated. The landowner does not show that they could do that, that they could go through the city zoning, they could go through the county zoning, that they would get those permits to build those houses or whatever else he wants to do, or he could build that commercial establishment, no showing of that. Yet, under this legislation, he is entitled to compensation. Nothing has been taken, only the suggestion in the proposal on a plan.

The Acting CHAIRMAN (Mr. SIMPSON). The question is on the amendment offered by the gentleman from California (Mr. POMBO).

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider amendment No. 2 printed in House Report 109–240.

AMENDMENT NO. 2 IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. GEORGE MILLER OF CALIFORNIA

Mr. GEORGE MILLER of California. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Acting CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

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

Amendment No. 2 in the nature of a substitute offered by Mr. GEORGE MILLER of California:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Amendment references.
Sec. 3. Definitions.
Sec. 4. Determinations of endangered species and threatened species.
Sec. 5. Repeal of critical habitat requirements.
Sec. 6. Petitions and procedures for determinations and revisions.
Sec. 7. Reviews of listings and determinations.
Sec. 8. Protective regulations.
Sec. 9. Secretarial guidelines; State comments.
Sec. 10. Recovery plans and land acquisitions.
Sec. 11. Cooperation with States and Indian tribes.
Sec. 12. Interagency cooperation and consultation.
Sec. 13. Exceptions to prohibitions.
Sec. 14. Private property conservation.
Sec. 15. Public accessibility and accountability.
Sec. 16. Annual cost analyses.
Sec. 17. Reimbursement for depredation of livestock by reintroduced species.
Sec. 18. Authorization of appropriations.
Sec. 19. Miscellaneous technical corrections.
Sec. 20. Establishment of Science Advisory Board.
Sec. 21. Clerical amendment to table of contents.

(b) SHORT TITLE.—This Act may be cited as the "Threatened and Endangered Species Recovery Act of 2005".

SEC. 2. AMENDMENT REFERENCES.

Except as otherwise expressly provided, whenever 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 such section or other provision of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

SEC. 3. DEFINITIONS.

(a) BEST AVAILABLE SCIENTIFIC DATA.—Section 3 (16 U.S.C. 1532) is amended by redesignating paragraphs (2) through (21) in order as paragraphs (3), (4), (5), (6), (7), (8), (9), (10), (11), (13), (14), (15), (16), (17), (18), (19), (20), (21), and (22), respectively, and by inserting before paragraph (3), as so redesignated, the following:

"(2) The term 'best available scientific data' means data and analyses, regardless of source, produced by scientifically accepted methods and procedures that are available to the Secretary at the time of a decision or action for which such data are required by this Act, and that meet scientifically accepted standards of objectivity, accuracy, reliability, and relevance. For the purpose of this paragraph, the term 'scientifically accepted' means those methods, procedures, and standards that are widely used within the relevant fields of science, including wildlife biology and management.".

(b) PERMIT OR LICENSE APPLICANT.—Section 3 (16 U.S.C. 1532) is further amended by amending paragraph (13), as so redesignated, to read as follows:

"(13) The term 'permit or license applicant' means, when used with respect to an action of a Federal agency that is subject to section 7(a) or (b), any person that has applied to such agency for a permit or license or for formal legal approval to perform an act.".

(c) JEOPARDIZE THE CONTINUED EXISTENCE.—Section 3 (16 U.S.C. 1532) is further amended by inserting after paragraph (11) the following:

"(12) The term 'jeopardize the continued existence' means to engage in an action that, directly or indirectly, makes it less likely that a threatened species or an endangered species will be brought to the point at which measures provided pursuant to this Act are no longer necessary, is likely to significantly delay doing so, or is likely to significantly increase the cost of doing so.".

(d) CONFORMING AMENDMENT.—Section 7(n) (16 U.S.C. 1536(n)) is amended by striking "section 3(13)" and inserting "section 3(14)".

SEC. 4. DETERMINATIONS OF ENDANGERED SPECIES AND THREATENED SPECIES.

(a) REQUIREMENT TO MAKE DETERMINATIONS.—Section 4 (16 U.S.C. 1533) is amended by striking so much as precedes subsection (a)(2) and inserting the following:

"DETERMINATION OF ENDANGERED SPECIES AND THREATENED SPECIES

"SEC. 4. (a) IN GENERAL.—(1) The Secretary shall by regulation promulgated in accordance with subsection (b) determine whether any species is an endangered species or a threatened species because of any of the following factors:

"(A) The present or threatened destruction, modification, or curtailment of its habitat or range, including by human activities, competition from other species, drought, fire, or other catastrophic natural causes.

"(B) Overutilization for commercial, recreational, scientific, or educational purposes.

"(C) Disease or predation.

"(D) The inadequacy of existing regulatory mechanisms, including any efforts identified pursuant to subsection (b)(1).

"(E) Other natural or manmade factors affecting its continued existence.".

(b) BASIS FOR DETERMINATION.—Section 4(b)(1)(A) (16 U.S.C. 1533(b)(1)(A)) is amended—

(1) by striking ''best scientific and commercial data available to him'' and inserting ''best available scientific data''; and

(2) by inserting ''Federal agency, any'' after ''being made by any''.

(c) LISTS.—Section 4(c)(2) (16 U.S.C. 1533(c)(2)) is amended to read as follows:

''(2)(A) The Secretary shall—

''(i) conduct, at least once every 5 years, based on the information collected for the biennial reports to the Congress required by paragraph (3) of subsection (f), a review of all species included in a list that is published pursuant to paragraph (1) and that is in effect at the time of such review; and

''(ii) determine on the basis of such review and any other information the Secretary considers relevant whether any such species should be proposed for—

''(I) removal from such list;

''(II) change in status from an endangered species to a threatened species; or

''(III) change in status from a threatened species to an endangered species.

''(B) Each determination under subparagraph (A)(ii) shall be made in accordance with subsections (a) and (b).''.

SEC. 5. REPEAL OF CRITICAL HABITAT REQUIREMENTS.

(a) REPEAL OF REQUIREMENT.—Section 4(a) (16 U.S.C. 1533(a)) is amended by striking paragraph (3).

(b) CONFORMING AMENDMENTS.—

(1) Section 4(b) (16 U.S.C. 1533(b)), as otherwise amended by this Act, is further amended by striking paragraph (2), and by redesignating paragraphs (3) through (8) in order as paragraphs (2) through (7), respectively.

(2) Section 4(b) (16 U.S.C. 1533(b)) is further amended in paragraph (2), as redesignated by paragraph (1) of this subsection, by striking subparagraph (D).

(3) Section 4(b) (16 U.S.C. 1533(b)) is further amended in paragraph (4), as redesignated by paragraph (1) of this subsection, by striking ''determination, designation, or revision referred to in subsection (a)(1) or (3)'' and inserting ''determination referred to in subsection (a)(1)''.

(4) Section 4(b) (16 U.S.C. 1533(b)) is further amended in paragraph (7), as redesignated by paragraph (1) of this subsection, by striking ''; and if such regulation'' and all that follows through the end of the sentence and inserting a period.

(5) Section 4(c)(1) (16 U.S.C. 1533(c)(1)) is amended—

(A) in the second sentence—

(i) by inserting ''and'' after ''if any''; and

(ii) by striking '', and specify any'' and all that follows through the end of the sentence and inserting a period; and

(B) in the third sentence by striking '', designations,''.

(6) Section 5 (16 U.S.C. 1534), as amended by section 9(a)(3) of this Act, is further amended in subsection (j)(2) by striking ''section 4(b)(7)'' and inserting ''section 4(b)(6)''.

(7) Section 6(c) (16 U.S.C. 1535(c)), as amended by section 10(1) of this Act, is further amended in paragraph (3) by striking ''section 4(b)(3)(B)(iii)'' each place it appears and inserting ''section 4(b)(2)(B)(iii)''.

(8) Section 7 (16 U.S.C. 1536) is amended—

(A) in subsection (a)(2) in the first sentence by striking ''or result in the destruction or adverse modification of any habitat of such species'' and all that follows through the end of the sentence and inserting a period;

(B) in subsection (a)(4) in the first sentence by striking ''or result'' and all that follows through the end of the sentence and inserting a period; and

(C) in subsection (b)(3)(A) by striking ''or its critical habitat''.

(9) Section 10(j)(2)(C)) (16 U.S.C. 1539(j)(2)(C)), as amended by section 12(c) of this Act, is further amended—

(A) by striking ''that—'' and all that follows through ''(i) solely'' and inserting ''that solely''; and

(B) by striking ''; and'' and all that follows through the end of the sentence and inserting a period.

SEC. 6. PETITIONS AND PROCEDURES FOR DETERMINATIONS AND REVISIONS.

(a) TREATMENT OF PETITIONS.—

(1) IN GENERAL.—Section 4(b) (16 U.S.C. 1533(b)) is amended in paragraph (2), as redesignated by section 5(b)(1) of this Act, by adding at the end of subparagraph (A) the following: ''The Secretary shall not make a finding that the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted unless the petitioner provides to the Secretary a copy of all information cited in the petition.''

(2) ADDITIONAL DATA.—Section 4(b) is further amended in paragraph (2), as redesignated by section 5(b)(1) of this Act, in subparagraph (A) by adding at the end the following: ''If the Secretary finds with respect to a petition under this subparagraph, that there is substantial disagreement regarding the sufficiency or accuracy of the available data relevant to the petitioned action, the Secretary, in consultation with the States, may for the purpose of seeking additional data postpone making a finding under this subsection by no more than 18 months.''.

(3) PRIORITIZATION ALLOWED.—Section 4(b) is further amended in paragraph (2), as redesignated by section 5(b)(1) of this Act, in subparagraph (B)(iii) by amending subclause (I) to read as follows:

''(I) the immediate proposal and timely promulgation of a final regulation implementing the petitioned action in accordance with paragraphs (5) and (6) is precluded within current fiscal year funding by higher priority pending proposals determined by the Secretary to involve species at greater risk of extinction, and''.

(b) IMPLEMENTING REGULATIONS.—

(1) PROPOSED REGULATIONS.—Section 4(b) (16 U.S.C. 1533(b)) is amended—

(A) in paragraph (4)(A), as redesignated by section 5(b)(2) of this Act—

(i) in clause (i) by striking '', and'' and inserting a semicolon;

(ii) in clause (ii) by striking ''to the State agency in'' and inserting ''to the Governor of, and the State agency in,'';

(iii) in clause (ii) by striking ''such agency'' and inserting ''such Governor or agency'';

(iv) in clause (ii) by inserting ''and'' after the semicolon at the end; and

(v) by adding at the end the following:

''(iii) maintain, and shall make available, a complete record of all information not protected by copyright concerning the determination or revision in the possession of the Secretary, on a publicly accessible website on the Internet, including an index to such information.''; and

(B) by adding at the end the following:

''(8)(A) Information maintained and made available under paragraph (5)(A)(iii) shall include any status review, all information not protected by copyright cited in such a status review, all information referred to in the proposed regulation and the preamble to the proposed regulation, and all information submitted to the Secretary by third parties.

''(B) The Secretary shall withhold from public review under paragraph (5)(A)(iii) any information that may be withheld under 552 of title 5, United States Code.''.

(2) FINAL REGULATIONS.—Paragraph (5) of section 4(b) (16 U.S.C. 1533(b)), as amended by section 5(b)(2) of this Act, is further amended—

(A) in subparagraph (A) by striking clauses (i) and (ii) and inserting the following:

''(i) a final regulation to implement such a determination of whether a species is an endangered species or a threatened species;

''(ii) notice that such one-year period is being extended under subparagraph (B)(i); or

''(iii) notice that the proposed regulation is being withdrawn under subparagraph (B)(ii), together with the finding on which such withdrawal is based.'';

(B) in subparagraph (B)(i) by striking ''subparagraph (A)(i)'' and inserting ''subparagraph (A)'';

(C) in subparagraph (B)(ii) by striking ''subparagraph (A)(i)'' and inserting ''subparagraph (A)''; and

(D) by striking subparagraph (C).

(3) EMERGENCY DETERMINATIONS.—Paragraph (6) of section 4(b) (16 U.S.C. 1533(b)), as redesignated by section 5(b)(2) of this Act, is further amended—

(A) in the matter preceding subparagraph (A), by inserting ''with respect to a determination of a species to be an endangered species'' after ''any regulation''; and

(B) in subparagraph (B), by striking ''the State agency in'' and inserting ''the Governor of, and State agency in,''.

SEC. 7. REVIEWS OF LISTINGS AND DETERMINATIONS.

Section 4(c) (16 U.S.C. 1533(c)) is amended by inserting at the end the following:

''(3) Each determination under paragraph (2)(B) shall consider the following as applicable:

''(A) Except as provided in subparagraph (B) of this paragraph, the criteria in the recovery plan for the species required by section 5(c)(1)(A) or (B).

''(B) If the recovery plan is issued before the criteria required under section 5(c)(1)(A) are established or if no recovery plan exists for the species, the factors for determination that a species is an endangered species or a threatened species set forth in subsections (a)(1) and (b)(1).

''(C) A finding of fundamental error in the determination that the species is an endangered species, a threatened species, or extinct.

''(D) A determination that the species is no longer an endangered species or threatened species or in danger of extinction, based on an analysis of the factors that are the basis for listing under section 4(a)(1).''.

SEC. 8. PROTECTIVE REGULATIONS.

Section 4(d) (16 U.S.C. 1533(d)) is amended by—

(1) inserting ''(1)'' before ''Whenever'';

(2) inserting ''in consultation with the States'' after ''the Secretary shall''; and

(3) adding at the end the following new paragraphs:

''(2) Each regulation published under this subsection after the enactment of the Threatened and Endangered Species Recovery Act of 2005 shall be accompanied with a statement by the Secretary of the reason or reasons for applying any particular prohibition to the threatened species.

''(3) A regulation issued under this subsection after the enactment of the Threatened and Endangered Species Recovery Act of 2005 may apply to more than one threatened species only if the specific threats to, and specific biological conditions and needs of, the species are identical, or sufficiently similar, to warrant the application of identical prohibitions.

''(4) The Secretary may review regulations issued under this subsection prior to the enactment of the Threatened and Endangered Species Recovery Act of 2005. A species afforded protections by any such regulation shall continue to be afforded those protections until such time as the Secretary shall review the regulations issued prior to the enactment of the Threatened and Endangered

Species Recovery Act of 2005 as they pertain to that species.''.

SEC. 9. SECRETARIAL GUIDELINES; STATE COMMENTS.

Section 4 (16 U.S.C. 1533) is amended—

(1) by striking subsections (f) and (g) and redesignating subsections (h) and (i) as subsections (f) and (g), respectively;

(2) in subsection (f), as redesignated by paragraph (1) of this subsection—

(A) in the heading by striking ''AGENCY'' and inserting ''SECRETARIAL'';

(B) in the matter preceding paragraph (1), by striking ''the purposes of this section are achieved'' and inserting ''this section is implemented'';

(C) by redesignating paragraph (4) as paragraph (5);

(D) in paragraph (3) by striking ''and'' after the semicolon at the end, and by inserting after paragraph (3) the following:

''(4) the criteria for determining best available scientific data pursuant to section 3(2); and''; and

(E) in paragraph (5), as redesignated by subparagraph (C) of this paragraph, by striking ''subsection (f) of this section'' and inserting ''section 5'';

(3) in subsection (g), as redesignated by paragraph (1) of this section—

(A) by inserting ''COMMENTS.—'' before the first sentence;

(B) by striking ''a State agency'' the first place it appears and inserting ''a Governor, State agency, county (or equivalent jurisdiction), or unit of local government'';

(C) by striking ''a State agency'' the second place it appears and inserting ''a Governor, State agency, county (or equivalent jurisdiction), or unit of local government'';

(D) by striking ''the State agency'' and inserting ''the Governor, State agency, county (or equivalent jurisdiction), or unit of local government, respectively''; and

(E) by striking ''agency's''.

SEC. 10. RECOVERY PLANS AND LAND ACQUISITIONS.

(a) IN GENERAL.—Section 5 (16 U.S.C. 1534) is amended—

(1) by redesignating subsections (a) and (b) as subsections (k) and (l), respectively;

(2) in subsection (l), as redesignated by paragraph (1) of this section, by striking ''subsection (a) of this section'' and inserting ''subsection (k)''; and

(3) by striking so much as precedes subsection (k), as redesignated by paragraph (1) of this section, and inserting the following:

''RECOVERY PLANS AND LAND ACQUISITION

''SEC. 5. (a) RECOVERY PLANS.—The Secretary shall, in accordance with this section, develop and implement a plan (in this subsection referred to as a 'recovery plan') for the conservation of the species determined under section 4(a)(1) to be an endangered species or a threatened species, unless the Secretary finds that such a plan will not promote the conservation and survival of the species.

''(b) DEVELOPMENT OF RECOVERY PLANS.—(1) Subject to paragraphs (2) and (3), the Secretary, in developing recovery plans, shall, to the maximum extent practicable, give priority to those endangered species or threatened species, without regard to taxonomic classification, that are most likely to benefit from such plans, particularly those species that are, or may be, in conflict with construction or other development projects or other forms of economic activity.

''(2) In the case of any species determined to be an endangered species or threatened species after the date of the enactment of the Threatened and Endangered Species Recovery Act of 2005, the Secretary shall publish a final recovery plan for a species within 3 years after the date the species is listed under section 4(c).

''(3)(A) For those species that are listed under section 4(c) on the date of enactment of the Threatened and Endangered Species Recovery Act of 2005 and are described in subparagraph (B) of this paragraph, the Secretary, after providing for public notice and comment, shall—

''(i) not later than 1 year after such date, publish in the Federal Register a priority ranking system for preparing or revising such recovery plans that is consistent with paragraph (1) and takes into consideration the scientifically based needs of the species; and

''(ii) not later than 18 months after such date, publish in the Federal Register a list of such species ranked in accordance with the priority ranking system published under clause (i) for which such recovery plans will be developed or revised, and a schedule for such development or revision.

''(B) A species is described in this subparagraph if—

''(i) a recovery plan for the species is not published under this Act before the date of enactment of the Threatened and Endangered Species Recovery Act of 2005 and the Secretary finds such a plan would promote the conservation and survival of the species; or

''(ii) a recovery plan for the species is published under this Act before such date of enactment and the Secretary finds revision of such plan is warranted.

''(C)(i) The Secretary shall, to the maximum extent practicable, adhere to the list and schedule published under subparagraph (A)(ii) in developing or revising recovery plans pursuant to this paragraph.

''(ii) The Secretary shall provide the reasons for any deviation from the list and tentative schedule published under subparagraph (A)(ii), in each report to the Congress under subsection (e).

''(4) The Secretary, using the priority ranking system required under paragraph (3), shall prepare or revise such plans within 10 years after the date of the enactment of the Threatened and Endangered Species Recovery Act of 2005.

''(5) The Secretary, using the priority ranking system required under paragraph (3), shall revise such plans within 10 years after the date of enactment of the Threatened and Endangered Species Recovery Act of 2005.

''(6) In development of recovery plans, the Secretary shall use comparative risk assessments, if appropriate, to consider and analyze the short-term and long-term consequences of alternative recovery strategies.

''(c) PLAN CONTENTS.—(1)(A) Except as provided in subparagraph (E), a recovery plan shall be based on the best available scientific data and shall include the following:

''(i) Objective, measurable criteria that, when met, would result in a determination, in accordance with this section, that the species to which the recovery plan applies be removed from the lists published under section 4(c) or be reclassified from an endangered species to a threatened species.

''(ii) A description of such site-specific or other measures that would achieve the criteria established under clause (i), including such intermediate measures as are warranted to effect progress toward achievement of the criteria.

''(iii) Estimates of the time required and the costs to carry out those measures described under clause (ii), including, to the extent practicable, estimated costs for any recommendations, by the recovery team, or by the Secretary if no recovery team is selected, that any of the areas identified under clause (iv) be acquired on a willing seller basis.

''(iv) An identification of those publicly owned areas of land or water that are necessary to achieve the purpose of the recovery plan under subsection (a), and, if such species is unlikely to be conserved on such areas, such other areas as are necessary to achieve the purpose of the recovery plan.

''(B) The Secretary may at the time of listing or at any time prior to the approval of a recovery plan for a species issue such guidance as the Secretary considers appropriate to assist Federal agencies, State agencies, and other persons in complying with the requirements of this Act by identifying either particular types of activities or particular areas of land or water within which those or other activities may impede the conservation of the species.

''(C) In specifying measures in a recovery plan under subparagraph (A), the Secretary shall—

''(i) whenever possible include alternative measures; and

''(ii) in developing such alternative measures, seek to identify, among such alternative measures of comparable expected efficacy and timeliness, the alternative measures that are least costly.

''(2) In the case of any species for which critical habitat has been designated prior to the enactment of the Threatened and Endangered Species Recovery Act of 2005, and for which no recovery plan has been developed or revised after the enactment of such Act, the Secretary shall treat the critical habitat of the species as an area described in subparagraph (A)(iv) until a recovery plan for the species is developed or the existing recovery plan for the species is revised pursuant to subsection (b)(4). In determining, pursuant to section 7(a)(2), whether an agency action is likely to jeopardize the continued existence of an endangered species or threatened species, the Secretary shall consider the effects of the action on any areas identified pursuant to subsection (b)(4).

''(d) RECOVERY TEAMS.—(1) The Secretary shall promulgate regulations that provide for the establishment of recovery teams that may advise the Secretary in the development of recovery plans under this section. The recovery teams may help the Secretary ensure that recovery plans are scientifically rigorous and that the evaluation of costs required by paragraph (1)(A)(iii) of subsection (c) are economically rigorous.

''(2) Such regulations shall—

''(A) establish criteria and the process for selecting the members of recovery teams that ensure that each team—

''(i) is of a size and composition to enable timely completion of the recovery plan; and

''(ii) includes sufficient representation from scientists with relevant expertise and constituencies with a demonstrated direct interest in the species and its conservation or in the economic and social impacts of its conservation to ensure that the views of such constituencies will be considered in the development of the plan; and

''(B) include provisions regarding operating procedures of and recordkeeping by recovery teams.

''(3) The Federal Advisory Committee Act (5 App. U.S.C.) shall not apply to recovery teams appointed in accordance with regulations issued by the Secretary under this subsection.

''(e) REPORTS TO CONGRESS.—(1) The Secretary shall report every two years to the Committee on Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate on the status of all domestic endangered species and threatened species and the status of efforts to develop and implement recovery plans for all domestic endangered species and threatened species.

''(2) In reporting on the status of such species since the time of its listing, the Secretary shall include—

''(A) an assessment of any significant change in the well-being of each such species, including—

''(i) changes in population, range, or threats; and

''(ii) the basis for that assessment; and

''(B) for each species, a measurement of the degree of confidence in the reported status of such species, based upon a quantifiable parameter developed for such purposes.

''(f) PUBLIC NOTICE AND COMMENT.—The Secretary shall, prior to final approval of a new or revised recovery plan, provide public notice and an opportunity for public review and comment on such plan. The Secretary shall consider all information presented during the public comment period prior to approval of the plan.

''(g) STATE COMMENT.—The Secretary shall, prior to final approval of a new or revised recovery plan, provide a draft of such plan and an opportunity to comment on such draft to the Governor of, and State agency in, any State and any Indian tribe to which such draft would apply. The Secretary shall include in the final recovery plan the Secretary's response to the comments of the Governor and the State agency and to any comments submitted by the Governor on behalf of a regional or local land use agency in the Governor's State.

''(h) INDIAN TRIBE DEFINED.—For purposes of this Act, the term 'Indian tribe' means—

''(1) with respect to the 48 contiguous States, any federally recognized Indian tribe, organized band, pueblo, or community; and

''(2) with respect to Alaska, the Metlakatla Indian Community.

''(i) USE OF PLANS.—(1) Each Federal agency shall consider any relevant best available scientific data contained in a recovery plan in any analysis conducted under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

''(2)(A) The head of any Federal agency may enter into an agreement with the Secretary specifying the measures the agency will carry out to implement a recovery plan.

''(B) Each such agreement shall be published in draft form with notice and an opportunity for public comment.

''(C) Each such final agreement shall be published, with responses by the head of the Federal agency to any public comments submitted on the draft agreement.

''(j) MONITORING.—(1) The Secretary shall implement a system in cooperation with the States to monitor effectively for not less than five years the status of all species that have recovered to the point at which the measures provided pursuant to this Act are no longer necessary and that, in accordance with this section, have been removed from the lists published under section 4(c).

''(2) The Secretary shall make prompt use of the authority under section 4(b)(7) to prevent a significant risk to the well-being of any such recovered species.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 6(d)(1) (16 U.S.C. 1535(d)(1)) is amended by striking ''section 4(g)'' and inserting ''section 5(j)''.

(2) The Marine Mammal Protection Act of 1972 is amended—

(A) in section 104(c)(4)(A)(ii) (16 U.S.C. 1374(c)(4)(A)(ii)) by striking ''section 4(f)'' and inserting ''section 5''; and

(B) in section 115(b)(2) (16 U.S.C. 1383b(b)(2)) by striking ''section 4(f) of the Endangered Species Act of 1973 (16 U.S.C. 1533(f))'' and inserting ''section 5 of the Endangered Species Act of 1973''.

SEC. 11. COOPERATION WITH STATES AND INDIAN TRIBES.

Section 6 (16 U.S.C. 1535) is further amended—

(1) in subsection (c), by adding at the end the following:

''(3)(A) Any cooperative agreement entered into by the Secretary under this subsection may also provide for development of a program for conservation of species determined to be candidate species pursuant to section 4(b)(3)(B)(iii) or any other species that the State and the Secretary agree is at risk of being determined to be an endangered species or threatened species under section 4(a)(1) in that State.

''(B) Any cooperative agreement entered into by the Secretary under this subsection may also provide for monitoring or assistance in monitoring the status of candidate species pursuant to section 4(b)(3)(C)(iii) or recovered species pursuant to section 5(j).

''(C) The Secretary shall periodically review each cooperative agreement under this subsection and seek to make changes the Secretary considers necessary for the conservation of endangered species and threatened species to which the agreement applies.

''(4) Any cooperative agreement entered into by the Secretary under this subsection that provides for the enrollment of private lands or water rights in any program established by the agreement shall ensure that the decision to enroll is voluntary for each owner of such lands or water rights.

''(5)(A) The Secretary may enter into a cooperative agreement under this subsection with an Indian tribe in substantially the same manner in which the Secretary may enter into a cooperative agreement with a State.

''(B) For the purposes of this paragraph, the term 'Indian tribe' means—

''(i) with respect to the 48 contiguous States, any federally recognized Indian tribe, organized band, pueblo, or community; and

''(ii) with respect to Alaska, the Metlakatla Indian Community.'';

(2) in subsection (d)(1)—

(A) by striking ''pursuant to subsection (c) of this section'';

(B) by striking ''or to assist'' and all that follows through ''section 5(j)'' and inserting ''pursuant to subsection (c)(1) and (2) or to address candidate species or other species at risk and recovered species pursuant to subsection (c)(3)''; and

(C) in subparagraph (F), by striking ''monitoring the status of candidate species'' and inserting ''developing a conservation program for, or monitoring the status of, candidate species or other species determined to be at risk pursuant to subsection (c)(3)''; and

(3) in subsection (e)—

(A) by inserting ''(1)'' before the first sentence;

(B) in paragraph (1), as designated by subparagraph (A) of this paragraph, by striking ''at no greater than annual intervals'' and inserting ''every 3 years''; and

(C) by adding at the end the following:

''(2) Any cooperative agreement entered into by the Secretary under subsection (c) shall be subject to section 7(a)(2) through (d) and regulations implementing such provisions.

''(3) The Secretary may suspend any cooperative agreement established pursuant to subsection (c), after consultation with the Governor of the affected State, if the Secretary finds during the periodic review required by paragraph (1) of this subsection that the agreement no longer constitutes an adequate and active program for the conservation of endangered species and threatened species.

''(4) The Secretary may terminate any cooperative agreement entered into by the Secretary under subsection (c), after consultation with the Governor of the affected State, if—

''(A) as result of the procedures of section 7(a)(2) through (d) undertaken pursuant to paragraph (2) of this subsection, the Secretary determines that continued implementation of the cooperative agreement is likely to jeopardize the continued existence of endangered species or threatened species, and the cooperative agreement is not amended or revised to incorporate a reasonable and prudent alternative offered by the Secretary pursuant to section 7(b)(3); or

''(B) the cooperative agreement has been suspended under paragraph (3) of this subsection and has not been amended or revised and found by the Secretary to constitute an adequate and active program for the conservation of endangered species and threatened species within 180 days after the date of the suspension.''.

SEC. 12. INTERAGENCY COOPERATION AND CONSULTATION.

(a) CONSULTATION REQUIREMENT.—Section 7(a) (16 U.S.C. 1536(a)) is amended—

(1) in paragraph (1) in the second sentence, by striking ''endangered species'' and all that follows through the end of the sentence and inserting ''species determined to be endangered species and threatened species under section 4.'';

(2) in paragraph (2)—

(A) in the first sentence by striking ''action'' the first place it appears and all that follows through ''is not'' and inserting ''agency action authorized, funded, or carried out by such agency is not'';

(B) in the second sentence, by striking ''best scientific and commercial data available'' and inserting ''best available scientific data''; and

(C) by adding at the end the following: ''In fulfilling the requirements of this paragraph, the Secretary shall take into account whether the adverse impacts to individuals of a species are outweighed by any conservation benefits to the species as a whole.''.

(3) in paragraph (4)—

(A) by striking ''listed under section 4'' and inserting ''an endangered species or a threatened species''; and

(B) by inserting '', under section 4'' after ''such species''.

(b) OPINION OF SECRETARY.—Section 7(b) (16 U.S.C. 1536(b)) is amended—

(1) in paragraph (1)(B)(i) by inserting ''permit or license'' before ''applicant'';

(2) in paragraph (2) by inserting ''permit or license'' before ''applicant'';

(3) in paragraph (3)(A)—

(A) in the first sentence—

(i) by striking ''Promptly after'' and inserting ''Before'';

(ii) by inserting ''permit or license'' before ''applicant''; and

(iii) by inserting ''proposed'' before ''written statement''; and

(B) by striking all after the first sentence and inserting the following: ''The Secretary shall consider any comment from the Federal agency and the permit or license applicant, if any, prior to issuance of the final written statement of the Secretary's opinion. The Secretary shall issue the final written statement of the Secretary's opinion by providing the written statement to the Federal agency and the permit or license applicant, if any, and publishing notice of the written statement in the Federal Register. If jeopardy is found, the Secretary shall suggest in the final written statement those reasonable and prudent alternatives, if any, that the Secretary believes would not violate subsection (a)(2) and can be taken by the Federal agency or applicant in implementing the agency action. The Secretary shall cooperate with the Federal agency and any permit or license applicant in the preparation of any suggested reasonable and prudent alternatives.'';

(4) in paragraph (4)—

(A) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively;

(B) by inserting ''(A)'' after ''(4)'';

(C) by striking ''the Secretary shall provide'' and all that follows through ''with a written statement that—'' and inserting the following: ''the Secretary shall include in the written statement under paragraph (3), a statement described in subparagraph (B) of this paragraph.

''(B) A statement described in this subparagraph—''; and

(5) by adding at the end the following:

''(5)(A) Any terms and conditions set forth pursuant to paragraph (4)(B)(iv) shall be no more than necessary to offset the impact of the incidental taking identified pursuant to paragraph (4) in the written statement prepared under paragraph (3).

''(B) If various terms and conditions are available to comply with paragraph (4)(B)(iv), the terms and conditions set forth pursuant to that paragraph—

''(i) must be capable of successful implementation; and

''(ii) must be consistent with the objectives of the Federal agency and the permit or license applicant, if any, to the greatest extent possible.''.

(c) BIOLOGICAL ASSESSMENTS.—Section 7(c) (16 U.S.C. 1536(c)) is amended—

(1) in the first sentence, by striking ''which is listed'' and all that follows through the end of the sentence and inserting ''that is determined to be an endangered species or a threatened species, or for which such a determination is proposed pursuant to section 4, may be present in the area of such proposed action.''; and

(2) in the second sentence, by striking ''best scientific and commercial data available'' and inserting ''best available scientific data''.

(d) MODIFICATION OF AN ENDANGERED SPECIES COMMITTEE PROCESS.—Section 7 (16 U.S.C. 1536) is amended—

(1) by repealing subsection (j);

(2) by redesignating the remaining subsections accordingly; and

(3) in subsection (o), as redesignated by paragraph (2) of this subsection—

(A) in the first sentence, by striking ''is authorized'' and all that follows through ''of this section'' and inserting ''may exempt an agency action from compliance with the requirements of subsections (a) through (d) of this section before the initiation of such agency action,''; and

(B) by striking the second sentence.

SEC. 13. EXCEPTIONS TO PROHIBITIONS.

(a) INCIDENTAL TAKE PERMITS.—Section 10(a)(2) (16 U.S.C. 1539(a)(2)) is amended—

(1) in subparagraph (A) by striking ''and'' after the semicolon at the end of clause (iii), by redesignating clause (iv) as clause (vii), and by inserting after clause (iii) the following:

''(iv) objective, measurable biological goals to be achieved for species covered by the plan and specific measures for achieving such goals consistent with the requirements of subparagraph (B);

''(v) measures the applicant will take to monitor impacts of the plan on covered species and the effectiveness of the plan's measures in achieving the plan's biological goals;

''(vi) adaptive management provisions necessary to respond to all reasonably foreseeable changes in circumstances that could appreciably reduce the likelihood of the survival and recovery of any species covered by the plan; and'';

(2) in subparagraph (B) by striking ''and'' after the semicolon at the end of clause (iv), by redesignating clause (v) as clause (vi), and by inserting after clause (iv) the following:

''(v) the term of the permit is reasonable, taking into consideration—

''(I) the period in which the applicant can be expected to diligently complete the principal actions covered by the plan;

''(II) the extent to which the plan will enhance the conservation of covered species;

''(III) the adequacy of information underlying the plan;

''(IV) the length of time necessary to implement and achieve the benefits of the plan; and

''(V) the scope of the plan's adaptive management strategy; and''; and

(3) by striking subparagraph (C) and inserting the following:

''(3) Any terms and conditions offered by the Secretary pursuant to paragraph (2)(B) to reduce or offset the impacts of incidental taking shall be no more than necessary to offset the impact of the incidental taking specified in the conservation plan pursuant to in paragraph (2)(A)(i).

''(4)(A) If the holder of a permit issued under this subsection for other than scientific purposes is in compliance with the terms and conditions of the permit, and any conservation plan or agreement incorporated by reference therein, the Secretary may not require the holder, without the consent of the holder, to adopt any new minimization, mitigation, or other measure with respect to any species adequately covered by the permit during the term of the permit, except as provided in subparagraphs (B) and (C) to meet circumstances that have changed subsequent to the issuance of the permit.

''(B) For any circumstance identified in the permit or incorporated document that has changed, the Secretary may, in the absence of consent of the permit holder, require only such additional minimization, mitigation, or other measures as are already provided in the permit or incorporated document for such changed circumstance.

''(C) For any changed circumstance not identified in the permit or incorporated document, the Secretary may, in the absence of consent of the permit holder, require only such additional minimization, mitigation, or other measures to address such changed circumstance that do not involve the commitment of any additional land, water, or financial compensation not otherwise committed, or the imposition of additional restrictions on the use of any land, water or other natural resources otherwise available for development or use, under the original terms and conditions of the permit or incorporated document.

''(D) The Secretary shall have the burden of proof in demonstrating and documenting, with the best available scientific data, the occurrence of any changed circumstances for purposes of this paragraph.

''(E) All permits issued under this subsection on or after the date of the enactment of the Threatened and Endangered Species Recovery Act of 2005, other than permits for scientific purposes, shall contain the assurances contained in subparagraphs (B) through (D) of this paragraph and paragraph (5)(A) and (B). Permits issued under this subsection on or after March 25, 1998, and before the date of the enactment of the Threatened and Endangered Species Recovery Act of 2005, other than permits for scientific purposes, shall be governed by the applicable sections of parts 17.22(b), (c), and (d), and 17.32(b), (c), and (d) of title 50, Code of Federal Regulations, as the same exist on the date of the enactment of the Threatened and Endangered Species Act of 2005.

''(F) If the Secretary determines that a conservation plan under this subsection reasonably can be expected to fail to achieve the goals specified under paragraph (2)(A)(iv), the Secretary shall, at the Secretary's expense, implement remedial conservation measures. Nothing in the preceding sentence shall be construed to allow the Secretary to require the holder of a permit issued under this subsection to undertake any additional measures without the consent of the holder.

''(5)(A) The Secretary shall revoke a permit issued under paragraph (2) if the Secretary finds that the permittee is not complying with the terms and conditions of the permit.

''(B) Any permit subject to paragraph (4)(A) may be revoked due to changed circumstances only if—

''(i) the Secretary determines that continuation of the activities to which the permit applies would be inconsistent with the criteria in paragraph (2)(B)(iv);

''(ii) the Secretary provides 60 days notice of revocation to the permittee; and

''(iii) the Secretary is unable to, and the permittee chooses not to, remedy the condition causing such inconsistency.''.

(b) EXTENSION OF PERIOD FOR PUBLIC REVIEW AND COMMENT ON APPLICATIONS.—Section 10(c) (16 U.S.C. 1539(c)) is amended in the second sentence by striking ''thirty'' each place it appears and inserting ''45''.

(c) EXPERIMENTAL POPULATIONS.—Section 10(j) (16 U.S.C. 1539(j)) is amended—

(1) in paragraph (1), by striking ''For purposes'' and all that follows through the end of the paragraph and inserting the following: ''For purposes of this subsection, the term 'experimental population' means any population (including any offspring arising therefrom) authorized by the Secretary for release under paragraph (2), but only when such population is in the area designated for it by the Secretary, and such area is, at the time of release, wholly separate geographically from areas occupied by nonexperimental populations of the same species. For purposes of this subsection, the term 'areas occupied by nonexperimental populations' means areas characterized by the sustained and predictable presence of more than negligible numbers of successfully reproducing individuals over a period of many years.'';

(2) in paragraph (2)(B), by striking ''information'' and inserting ''scientific data''; and

(3) in paragraph (2)(C)(i), by striking ''listed'' and inserting ''determined to be an endangered species or a threatened species''.

(d) WRITTEN DETERMINATION OF COMPLIANCE.—Section 10 (16 U.S.C. 1539) is amended by adding at the end the following:

''(k) WRITTEN DETERMINATION OF COMPLIANCE.—(1) A property owner (in this subsection referred to as a 'requester') may request the Secretary to make a written determination as to whether a proposed use of the owner's property that is lawful under State and local law will require a permit under section 10(a), by submitting a written description of the proposed action to the Secretary by certified mail.

''(2) A written description of a proposed use is deemed to be sufficient for consideration by the Secretary under paragraph (1) if the description includes—

''(A) the nature, the specific location, the lawfulness under State and local law, and the anticipated schedule and duration of the proposed use, and a demonstration that the property owner has the means to undertake the proposed use; and

''(B) any anticipated adverse impact to a species that is included on a list published under 4(c)(1) that the requestor reasonably expects to occur as a result of the proposed use.

''(3) The Secretary may request and the requestor may supply any other information that either believes will assist the Secretary to make a determination under paragraph (1).

''(4) If the Secretary does not make a determination pursuant to a request under this subsection because of the omission from the request of any information described in paragraph (2), the requestor may submit a subsequent request under this subsection for the same proposed use.

''(5)(A) Subject to subparagraph (B), the Secretary shall provide to the requestor a written determination of whether the proposed use, as proposed by the requestor, will require a permit under section 10(a), by not later than expiration of the 180-day period beginning on the date of the submission of the request.

''(B) The Secretary may request, and the requestor may grant, a written extension of the period under subparagraph (A).

''(6) At the end of each fiscal year, the Secretary shall transmit a report to the Congress listing the requests to which the Secretary did not provide a requestor a timely response under paragraph (5)(A) or (B), the status of those requests at the time of transmittal of the report, and an explanation for the circumstances that prevented the Secretary from providing any such requestor with a timely response.

''(7) This subsection shall not apply with respect to agency actions that are subject to consultation under section 7.''.

(e) NATIONAL SECURITY EXEMPTION.—Section 10 (16 U.S.C. 1539) is further amended by adding at the end the following:

''(l) NATIONAL SECURITY.—The President, after consultation with the appropriate Federal agency, may exempt any act or omission from the provisions of this Act if the President finds that such exemption is necessary for national security.''.

SEC. 14. PRIVATE PROPERTY CONSERVATION.

Section 13 (consisting of amendments to other laws, which have executed) is amended to read as follows:

''PRIVATE PROPERTY CONSERVATION PROGRAM

''SEC. 13. (a) ESTABLISHMENT OF PROGRAM.—

''(1) REQUIREMENT.—The Secretary shall establish a Private Property Conservation Program to improve the habitat and promote the conservation, on private lands, of endangered species, threatened species, and species that are candidates to be determined to be endangered species or threatened species.

''(2) AGREEMENTS AUTHORIZED.—The Secretary may enter into an agreement with a private property owner under which the Secretary shall, subject to appropriations, make annual or other payments to the person to implement the agreement.

''(3) CONTENTS.—Any agreement the Secretary enters into under this section shall—

''(A) specify a management plan that the private property owner shall commit to implement on the property of the private property owner, including—

''(i) an identification of the species and habitat covered by the plan;

''(ii) a finding by the Secretary that the land to which the agreement applies is appropriate for the species and habitat covered by the agreement;

''(iii) a description of the activities the private property owner shall undertake to conserve the species and to create, restore, enhance, or protect habitat; and

''(iv) a description of the existing or future economic activities on the land to which the agreement applies that are compatible with the goals of the program.

''(B) specify the terms of the agreement, including—

''(i) the terms of payment to be provided by the Secretary to the private property owner;

''(ii) a description of any technical assistance the Secretary will provide to the private property owner to implement the management plan;

''(iii) the terms and conditions under which the Secretary and the private property owner mutually agree that the agreement may be modified or terminated;

''(iv) acts or omissions by the Secretary or the private property owner that shall be considered violations of the agreement, and procedures under which notice and an opportunity to remedy any violation by the private property owner shall be given;

''(v) a finding by the Secretary that the private property owner owns the land to which the agreement applies or has sufficient control over the use of such land to ensure implementation of agreement; and

''(vi) such other duties of the Secretary and of the private property owner as are appropriate.

''(4) COST SHARE.—The Secretary may provide up to 70 percent of the cost to implement the management plan under the terms of the agreement.

''(5) PRIORITY.—In entering into agreements under this section, the Secretary shall give priority to those agreements—

''(A) that apply to areas identified under section 5(c)(1)(A)(iv); and

''(B) reasonably can be expected to achieve the greatest benefit for the conservation of the species covered by the agreement relative to the total amount of funds to be expended to implement the agreement.

''(6) TECHNICAL ASSISTANCE.—Any State agency, local government, nonprofit organization, or federally recognized Indian tribe may provide technical assistance to a private property owner in the preparation of a management plan, or participate in the implementation of a management plan, including identifying and making available certified fisheries or wildlife biologists with expertise in the conservation of species.

''(7) TRANSFER OF PROPERTY.—Upon any conveyance or other transfer of interest in land that is subject to an agreement under this section

''(A) the agreement shall continue in effect with respect to such land, with the same terms and conditions, if the person to whom the land or interest is conveyed or otherwise transferred notifies the Secretary of the person's election to continue the agreement by not later than 30 days after the date of the conveyance or other transfer;

''(B) the agreement shall terminate if the agreement does not continue in effect under subparagraph (A); and

''(C) the person to whom the land or interest is conveyed or otherwise transferred may seek a new agreement under this section.

''(8) MODEL FORM OF AGREEMENT.—Not later than 1 year after the date of the enactment of the Threatened and Endangered Species Act of 2005, the Secretary shall establish a model form of agreement that a person may enter into with the Secretary under this section.

''(9) VOLUNTARY PROGRAM.—

''(A) AGREEMENTS MAY NOT BE REQUIRED.—The Secretary, or any other Federal official, may not require a person to enter into an agreement under this section as a term or condition of any right, privilege, or benefit, or of any action or refraining from any action, under this or any other law.

''(B) REQUIREMENTS UNDER LAWS AND PERMITS.—None of the activities otherwise required by law or by the terms of any permit may be included in any agreement under this section.

''(10) RELATIONSHIP TO HABITAT CONSERVATION PLANS.—The Secretary may consider an agreement under this subsection that applies to an endangered species or threatened species in determining the adequacy of a conservation plan for the purpose of section 10(a)(2).

''(b) TECHNICAL ASSISTANCE PROGRAM FOR SMALL LANDOWNERS.—

''(1) IN GENERAL.—The Secretary shall establish a program to offer technical assistance to owners of private property seeking guidance on the conservation of endangered species or threatened species, or species that are candidates for being determined to be endangered species or threatened species.

''(2) ALLOWABLE ACTIVITIES.—Upon request, the Secretary may provide technical assistance to an owner of private property for the purpose of—

''(A) helping to prepare and implement a conservation agreement under subsection (a);

''(B) training the managers of private property in best practices to conserve species and create, restore, enhance, and protect habitat for species;

''(C) helping to prepare an application for a permit and a conservation plan under section 10(a); and

''(D) any other purpose the Secretary determines is appropriate to meet the goals of the program under subsection (a).

''(3) PRIORITY.—The Secretary shall give priority in offers of technical assistance to owners of private property that the Secretary determines cannot reasonably be expected to afford adequate technical assistance.

''(4) FUNDING FOR PROGRAM.—For any year for which funds are appropriated to carry out this Act, 10 percent shall be for carrying out this subsection, unless the Secretary determines for any fiscal year that a smaller percentage is sufficient and submits a report to the Congress containing the percentage and an explanation of the basis for the determination.''.

SEC. 15. PUBLIC ACCESSIBILITY AND ACCOUNTABILITY.

Section 14 (relating to repeals of other laws, which have executed) is amended to read as follows:

''PUBLIC ACCESSIBILITY AND ACCOUNTABILITY

''SEC. 14. The Secretary shall make available on a publicly accessible website on the Internet—

''(1) each list published under section 4(c)(1);

''(2) all final and proposed regulations and determinations under section 4;

''(3) the results of all 5-year reviews conducted under section 4(c)(2)(A);

''(4) all draft and final recovery plans issued under section 5(a), and all final recovery plans issued and in effect under section 4(f)(1) of this Act as in effect immediately before the enactment of the Threatened and Endangered Species Recovery Act of 2005;

''(5) all reports required under sections 5(e) and 16, and all reports required under sections 4(f)(3) and 18 of this Act as in effect immediately before the enactment of the Threatened and Endangered Species Recovery Act of 2005; and

''(6) to the extent practicable, data contained in the reports referred to in paragraph (5) of this section, and that were produced after the date of enactment of the Threatened and Endangered Species Recovery Act of 2005, in the form of databases that may be searched by the variables included in the reports.''.

SEC. 16. ANNUAL COST ANALYSES.

(a) ANNUAL COST ANALYSES.—Section 18 (16 U.S.C. 1544) is amended to read as follows:

''ANNUAL COST ANALYSIS BY UNITED STATES FISH AND WILDLIFE SERVICE

''SEC. 18. (a) IN GENERAL.—On or before January 15 of each year, the Secretary shall submit to the Congress an annual report covering the preceding fiscal year that contains

an accounting of all reasonably identifiable expenditures made primarily for the conservation of species included on lists published and in effect under section 4(c).

''(b) SPECIFICATION OF EXPENDITURES.—Each report under this section shall specify—

''(1) expenditures of Federal funds on a species-by-species basis, and expenditures of Federal funds that are not attributable to a specific species;

''(2) expenditures by States for the fiscal year covered by the report on a species-by-species basis, and expenditures by States that are not attributable to a specific species; and

''(3) based on data submitted pursuant to subsection (c), expenditures voluntarily reported by local governmental entities on a species-by-species basis, and such expenditures that are not attributable to a specific species.

''(c) ENCOURAGEMENT OF VOLUNTARY SUBMISSION OF DATA BY LOCAL GOVERNMENTS.—The Secretary shall provide a means by which local governmental entities may—

''(1) voluntarily submit electronic data regarding their expenditures for conservation of species listed under section 4(c); and

''(2) attest to the accuracy of such data.''.

(b) ELIGIBILITY OF STATES FOR FINANCIAL ASSISTANCE.—Section 6(d) (16 U.S.C. 1535(d)) is amended by adding at the end the following:

''(3) A State shall not be eligible for financial assistance under this section for a fiscal year unless the State has provided to the Secretary for the preceding fiscal year information regarding the expenditures referred to in section 16(b)(2).''.

SEC. 17. REIMBURSEMENT FOR DEPREDATION OF LIVESTOCK BY REINTRODUCED SPECIES.

The Endangered Species Act of 1973 is further amended—

(1) by striking sections 15 and 16;

(2) by redesignating sections 17 and 18 as sections 15 and 16, respectively; and

(3) by adding after section 16, as so redesignated, the following:

''REIMBURSEMENT FOR DEPREDATION OF LIVESTOCK BY REINTRODUCED SPECIES

''SEC. 17. (a) IN GENERAL.—The Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, may reimburse the owner of livestock for any loss of livestock resulting from depredation by any population of a species if the population is listed under section 4(c) and includes or derives from members of the species that were reintroduced into the wild.

''(b) USE OF DONATIONS.—The Secretary may accept and use donations of funds to pay reimbursement under this section.

''(c) AVAILABILITY OF APPROPRIATIONS.—The requirement to pay reimbursement under this section is subject to the availability of funds for such payments.''.

SEC. 18. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—The Endangered Species Act of 1973 is further amended by adding at the end the following:

''AUTHORIZATION OF APPROPRIATIONS

''SEC. 18. (a) IN GENERAL.—There are authorized to be appropriated to carry out this Act, other than section 8A(e)—

''(1) to the Secretary of the Interior to carry out functions and responsibilities of the Department of the Interior under this Act, such sums as are necessary for fiscal years 2006 through 2010; and

''(2) to the Secretary of Agriculture to carry out functions and responsibilities of the Department of the Interior with respect to the enforcement of this Act and the convention which pertain the importation of plants, such sums as are necessary for fiscal year 2006 through 2010.

''(b) CONVENTION IMPLEMENTATION.—There is authorized to be appropriated to the Secretary of the Interior to carry out section 8A(e) such sums as are necessary for fiscal years 2006 through 2010.''.

(b) CONFORMING AMENDMENT.—Section 8(a) (16 U.S.C. 1537(a)) is amended by striking ''section 15'' and inserting ''section 18''.

SEC. 19. MISCELLANEOUS TECHNICAL CORRECTIONS.

(a) INTERNATIONAL COOPERATION.—Section 8 (16 U.S.C. 1537) is amended—

(1) in subsection (a) in the first sentence by striking ''any endangered species or threatened species listed'' and inserting ''any species determined to be an endangered species or a threatened species''; and

(2) in subsection (b) in paragraph (1), by striking ''endangered species and threatened species listed'' and inserting ''species determined to be endangered species and threatened species''.

(b) MANAGEMENT AUTHORITY AND SCIENTIFIC AUTHORITY.—Section 8A (16 U.S.C. 1537a)) is amended—

(1) in subsection (a), by striking ''of the Interior (hereinafter in this section referred to as the 'Secretary')'';

(2) in subsection (d), by striking ''Merchant Marine and Fisheries'' and inserting ''Resources''; and

(3) in subsection (e)—

(A) in paragraph (1), by striking ''of the Interior (hereinafter in this subsection referred to as the 'Secretary')''; and

(B) by striking paragraph (3) and redesignating paragraph (4) as paragraph (3).

(c) PROHIBITED ACTS.—Section 9 (16 U.S.C. 1538) is amended—

(1) in subsection (a)—

(A) in paragraph (1), in the matter preceding subparagraph (A), by striking ''of this Act, with respect to any endangered species of fish or wildlife listed pursuant to section 4 of this Act'' and inserting '', with respect to any species of fish or wildlife determined to be an endangered species under section 4'';

(B) in paragraph (1)(G), by striking ''threatened species of fish or wildlife listed pursuant to section 4 of this Act'' and inserting ''species of fish or wildlife determined to be a threatened species under section 4'';

(C) in paragraph (2), in the matter preceding subparagraph (A) by striking ''of this Act, with respect to any endangered species of plants listed pursuant to section 4 of this Act'' and inserting '', with respect to any species of plants determined to be an endangered species under section 4''; and

(D) in paragraph (2)(E), by striking ''listed pursuant to section 4 of this Act'' and inserting ''determined to be a threatened species under section 4'';

(2) in subsection (b)—

(A) by striking ''(1)'' before ''SPECIES'' and inserting ''(1)'' before the first sentence;

(B) in paragraph (1), in the first sentence, by striking ''adding such'' and all that follows through '': *Provided*, That'' and inserting ''determining such fish or wildlife species to be an endangered species or a threatened species under section 4, if''; and

(C) in paragraph (1), in the second sentence, by striking ''adding such'' and all that follows through ''this Act'' and inserting ''determining such fish or wildlife species to be an endangered species or a threatened species under section 4'';

(3) in subsection (c)(2)(A), by striking ''an endangered species listed'' and inserting ''a species determined to be an endangered species'';

(4) in subsection (d)(1)(A), by striking clause (i) and inserting the following: ''(i) are not determined to be endangered species or threatened species under section 4, and'';

(5) in subsection (e), by striking clause (1) and inserting the following: ''(1) are not determined to be endangered species or threatened species under section 4, and''; and

(6) in subsection (f)—

(A) in paragraph (1), in the first sentence, by striking clause (A) and inserting the following: ''(A) are not determined to be endangered species or threatened species under section 4, and''; and

(B) by striking ''Secretary of the Interior'' each place it appears and inserting ''Secretary''.

(d) HARDSHIP EXEMPTIONS.—Section 10(b) (16 U.S.C. 1539(b)) is amended—

(1) in paragraph (1)—

(A) by striking ''an endangered species'' and all that follows through ''section 4 of this Act'' and inserting ''an endangered species or a threatened species and the subsequent determination that the species is an endangered species or a threatened species under section 4'';

(B) by striking ''section 9(a) of this Act'' and inserting ''section 9(a)''; and

(C) by striking ''fish or wildlife listed by the Secretary as endangered'' and inserting ''fish or wildlife determined to be an endangered species or threatened species by the Secretary''; and

(2) in paragraph (2)—

(A) by inserting ''or a threatened species'' after ''endangered species'' each place it appears; and

(B) in subparagraph (B), by striking ''listed species'' and inserting ''endangered species or threatened species''.

(e) PERMIT AND EXEMPTION POLICY.—Section 10(d) (16 U.S.C. 1539(d)) is amended—

(1) by inserting ''or threatened species'' after ''endangered species''; and

(2) by striking ''of this Act''.

(f) PRE-ACT PARTS AND SCRIMSHAW.—Section 10(f) (16 U.S.C. 1539(f)) is amended—

(1) by inserting after ''(f)'' the following: ''PRE-ACT PARTS AND SCRIMSHAW.—''; and

(2) in paragraph (2), by striking ''of this Act'' each place it appears.

(g) BURDEN OF PROOF IN SEEKING EXEMPTION OR PERMIT.—Section 10(g) (16 U.S.C. 1539(g)) is amended by inserting after ''(g)'' the following: ''BURDEN OF PROOF IN SEEKING EXEMPTION OR PERMIT.—''.

(h) ANTIQUE ARTICLES.—Section 10(h)(1)(B) (16 U.S.C. 1539(h)(1)(B)) is amended by striking ''endangered species or threatened species listed'' and inserting ''species determined to be an endangered species or a threatened species''.

(i) PENALTIES AND ENFORCEMENT.—Section 11 (16 U.S.C. 1540) is amended in subsection (e)(3), in the second sentence, by striking ''Such persons'' and inserting ''Such a person''.

(j) SUBSTITUTION OF GENDER-NEUTRAL REFERENCES.—

(1) ''SECRETARY'' FOR ''HE''.—The following provisions are amended by striking ''he'' each place it appears and inserting ''the Secretary'':

(A) Paragraph (4)(C) of section 4(b), as redesignated by section 5(b)(2) of this Act.

(B) Paragraph (5)(B)(ii) of section 4(b), as redesignated by section 5(b)(2) of this Act.

(C) Section 4(b)(7) (16 U.S.C. 1533(b)(7)), in the matter following subparagraph (B).

(D) Section 6 (16 U.S.C. 1535).

(E) Section 8(d) (16 U.S.C. 1537(d)).

(F) Section 9(f) (16 U.S.C. 1538(f)).

(G) Section 10(a) (16 U.S.C. 1539(a)).

(H) Section 10(b)(3) (16 U.S.C. 1539(b)(3)).

(I) Section 10(d) (16 U.S.C. 1539(d)).

(J) Section 10(e)(4) (16 U.S.C. 1539(e)(4)).

(K) Section 10(f)(4), (5), and (8)(B) (16 U.S.C. 1599(f)(4), (5), (8)(B)).

(L) Section 11(e)(5) (16 U.S.C. 1540(e)(5)).

(2) ''PRESIDENT'' FOR ''HE''.—Section 8(a) (16 U.S.C. 1537(a)) is amended in the second sentence by striking ''he'' and inserting ''the President''.

(3) ''SECRETARY OF THE INTERIOR'' FOR ''HE''.—Section 8(b)(3) (16 U.S.C. 1537(b)(3)) is amended by striking ''he'' and inserting ''the Secretary of the Interior''.

(4) ''PERSON'' FOR ''HE''.—The following provisions are amended by striking ''he'' each place it appears and inserting ''the person'':

(A) Section 10(f)(3) (16 U.S.C. 1539(f)(3)).

(B) Section 11(e)(3) (16 U.S.C. 1540(e)(3)).

(5) ''DEFENDANT'' FOR ''HE''.—The following provisions are amended by striking ''he'' each place it appears and inserting ''the defendant''.

(A) Section 11(a)(3) (16 U.S.C. 1540(a)(3)).

(B) Section 11(b)(3) (16 U.S.C. 1540(b)(3)).

(6) REFERENCES TO ''HIM''.—

(A) Section 4(c)(1) (16 U.S.C. 1533(c)(1)) is amended by striking ''him or the Secretary of Commerce'' each place it appears and inserting ''the Secretary''.

(B) Paragraph (6) of section 4(b) (16 U.S.C. 1533(b)), as redesignated by section 5(b)(2) of this Act, is further amended in the matter following subparagraph (B) by striking ''him'' and inserting ''the Secretary''.

(C) Section 5(k)(2), as redesignated by section 9(a)(1) of this Act, is amended by striking ''him'' and inserting ''the Secretary''.

(D) Section 7(a)(1) (16 U.S.C. 1536(a)(1)) is amended in the first sentence by striking ''him'' and inserting ''the Secretary''.

(E) Section 8A(c)(2) (16 U.S.C. 1537a(c)(2)) is amended by striking ''him'' and inserting ''the Secretary''.

(F) Section 9(d)(2)(A) (16 U.S.C. 1538(d)(2)(A)) is amended by striking ''him'' each place it appears and inserting ''such person''.

(G) Section 10(b)(1) (16 U.S.C. 1539(b)(1)) is amended by striking ''him'' and inserting ''the Secretary''.

(7) REFERENCES TO ''HIMSELF OR HERSELF''.—Section 11 (16 U.S.C. 1540) is amended in subsections (a)(3) and (b)(3) by striking ''himself or herself'' each place it appears and inserting ''the defendant''.

(8) REFERENCES TO ''HIS''.—

(A) Section 4(g)(1), as redesignated by section 8(1) of this Act, is amended by striking ''his'' and inserting ''the''.

(B) Section 6 (16 U.S.C. 1535) is amended—

(i) in subsection (d)(2) in the matter following clause (ii) by striking ''his'' and inserting ''the Secretary's''; and

(ii) in subsection (e)(1), as designated by section 10(3)(A) of this Act, by striking ''his periodic review'' and inserting ''periodic review by the Secretary''.

(C) Section 7(a)(3) (16 U.S.C. 1536(a)(3)) is amended by striking ''his'' and inserting ''the applicant's''.

(D) Section 8(c)(1) (16 U.S.C. 1537(c)(1)) is amended by striking ''his'' and inserting ''the Secretary's''.

(E) Section 9 (16 U.S.C. 1538) is amended in subsection (d)(2)(B) and subsection (f) by striking ''his'' each place it appears and inserting ''such person's''.

(F) Section 10(b)(3) (16 U.S.C. 1539(b)(3)) is amended by striking ''his'' and inserting ''the Secretary's''.

(G) Section 10(d) (16 U.S.C. 1539(d)) is amended by striking ''his'' and inserting ''the''.

(H) Section 11 (16 U.S.C. 1540) is amended—

(i) in subsection (a)(1) by striking ''his'' and inserting ''the Secretary's'';

(ii) in subsections (a)(3) and (b)(3) by striking ''his or her'' each place it appears and inserting ''the defendant's'';

(iii) in subsection (d) by striking ''his'' and inserting ''the officer's or employee's'';

(iv) in subsection (e)(3) in the second sentence by striking ''his'' and inserting ''the person's''; and

(v) in subsection (g)(1) by striking ''his'' and inserting ''the person's''.

SEC. 20. ESTABLISHMENT OF SCIENCE ADVISORY BOARD.

The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) is further amended by adding at the end the following:

''SCIENCE ADVISORY BOARD

''SEC. 19.

''(a) IN GENERAL.—Within 12 months after the date of the enactment of the Threatened and Endangered Species Recovery Act of 2005, the Secretary of Interior, through the Director of the United States Fish and Wildlife Service, shall establish a Science Advisory Board (in this section referred to as the 'Board') to provide such scientific advice as may be requested by the Secretary to assist in the evaluation of the use of science in implementing this Act, including in the development of policies and procedures pertaining to the use of scientific information.

''(b) COMPOSITION.—The Board shall each consist of 9 members appointed by the Secretary of the Interior from a list of nominees recommended by the National Academy of Sciences, utilizing a system of staggered 3-year terms of appointment. One member shall be elected by the members of the Board as its Chairman. Members of the Board shall be selected on the basis of their professional qualifications in the areas of ecology, fish and wildlife management, plant ecology, or natural resource conservation. Members of the Board shall not hold another office or position in the Federal Government. If a vacancy occurs on the Board due to expiration of a term, resignation, or any other reason, each replacement shall be selected by the Secretary from a group of at least 4 nominees recommended by the National Academy of Sciences. The Secretary may extend the term of a Board member until the new member is appointed to fill the vacancy. If a vacancy occurs due to resignation, or reason other than expiration of a term, the Secretary shall appoint a member to serve during the unexpired term utilizing the nomination process set forth in this subsection. The Secretary shall publish in the Federal Register the name, business address, and professional affiliations of each appointee.

''(c) COMPENSATION.—Each member of the Board shall receive per diem compensation at a rate not in excess of that fixed for GS–15 of the General Schedule as may be determined by the Secretary of the Interior.

''(d) STAFF.—Upon the recommendation of the Board, the Secretary of the Interior shall make available employees as necessary to exercise and fulfill the Board's responsibilities. ''.

SEC. 21. CLERICAL AMENDMENT TO TABLE OF CONTENTS.

The table of contents in the first section is amended—

(1) by striking the item relating to section 5 and inserting the following:

''Sec. 5. Recovery plans and land acquisition.''

; and

(2) by striking the items relating to sections 13 through 17 and inserting the following:

''Sec. 13. Private property conservation program.

''Sec. 14. Public accessibility and accountability.

''Sec. 15. Marine Mammal Protection Act of 1972.

''Sec. 16. Annual cost analysis by United States Fish and Wildlife Service.

''Sec. 17. Reimbursement for depredation of livestock by reintroduced species.

''Sec. 18. Authorization of appropriations.

''Sec. 19. Science Advisory Board.''.

The Acting CHAIRMAN. Pursuant to House Resolution 470, the gentleman from California (Mr. GEORGE MILLER) and the gentleman from California (Mr. POMBO) each will control 30 minutes.

The Chair recognizes the gentleman from California (Mr. GEORGE MILLER).

Mr. GEORGE MILLER of California. Mr. Chairman, I yield myself such time as I may consume.

The bipartisan substitute that we have introduced here in fact goes to fundamental and basic changes in the Endangered Species Act to both provide for the better protection of the species, but also to make this Act far more workable, far more definite in terms of the interests of landowners, the impacts and the timelines and the guidelines that will be offered to them to make this Act work. That is the spirit of the reform of the Endangered Species Act. That is not what is taking place in this underlying bill.

In the manager's amendment that was just introduced, it has been suggested now for the last several days that there is a recovery plan in the underlying bill. The manager's amendment, in fact, strikes that recovery plan in terms of its basic, fundamental necessity for the recovery of those species. So the difference between the substitute and the underlying bill is in the substitute, you will, in fact, have enforceable recovery plans where other actions have to be measured against the impacts on those recovery plans, the habitat that is developed under those recovery plans to make sure that the recovery of the species continues. That is no longer a requirement. That is no longer a requirement in the substitute bill.

That is why I would hope that people would understand that if you really want to provide for the reform, if you really want to provide for the reform of the Endangered Species Act, if you really want to make this Act more user-friendly, if you really want to have it based upon science, if you want to have the recovery based upon science, you want those determinations made with the best science, then that is what the substitute does.

There has been a bait and switch here. Up until just recently, with the adoption of the manager's amendment, you could argue that that is what the underlying bill does. But, with the new language that is introduced in the manager's amendment, that is no longer the case, and I would hope that people would understand you will not be able to provide for the kind of recovery that this Nation expects, that our constituents expect, and most Members of Congress expect with that legislation now with the manager's amendment.

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

Mr. POMBO. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. CARDOZA).

Mr. CARDOZA. Mr. Chairman, I rise today in opposition to the substitute being offered for a number of reasons.

The substitute basically takes the Pombo bill and cuts out everything that is important to my constituents, the small farmers and ranchers of the Central Valley who are being driven out of our valley through arbitrary and capricious regulatory burdens. It is my constituents who are the ones that are begging me to help them reform the Endangered Species Act, and I think this substitute leaves them behind and brings our efforts back to square one.

What I cannot support is the removal of 2 provisions that I find absolutely critical to any reforms to the ESA: mandatory landowner notification, and the conservation compensation plans for effective landowners.

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The first issue, the landowner notification is just a no-brainer issue. Landowners deserve to know what they can and cannot do with their property and the service should be responsible for telling them.

Many of the opponents of this provision claim that landowners can simply go to court and get a decision but in reality, they cannot because the court has ruled in previous cases that unless the service tells them no directly they have no standing in court. This provision is crucial, especially to the little guy who does not have millions and millions of dollars to higher lawyers, biologists and surveyors needed to take on the service.

Mr. Chairman, these little guys deserve an answer just like the big guys do. I understand that there is a provision in the substitute that attempts to address this issue with a similar 180 day timeline. Unfortunately, there is no enforcement behind the language other than a report to Congress, and we all know what we do with reports to Congress.

The service is under a number of other time lines under ESA such as a time line for completing political opinions which they also choose to ignore. The substitute provisions would do exactly the same thing and bring us back to square one. The second is the strong private property rights section that are good in H.R. 3824. They did not seem to make the cut in the substitute. It is not a sweeping entitlement program as some would have you believe. It is a program that will fairly compensate landowners and will provide species with conservation mitigation measures that would otherwise go unprotected.

I do have to say that I am pleased that my colleagues chose to include a number of provisions from the underlying bill in the substitute. The fact that the substitute includes the same repeal of critical habit speaks volumes for the overall consensus that this Act needs to be changed and updated to reflect the evolving circumstances on the ground that have impeded the accurate critical habit designations.

But the deleted provisions from H.R. 3824 and the new definition of jeopardy, under which, frankly, I am not sure if I could mow my own lawn, will do nothing to relieve the conflict that currently exists under that ESA.

It will do nothing more than the underlying bill to recovery species, and this will simply put us back to square one.

Mr. Chairman, I have one final comment. I must correct the record. I would ask that the gentleman from Oregon (Mr. WALDEN) place back up the slide that he had from the bill which outlines that under the Pombo bill, actually, it is here, under the Pombo bill you can only become compensated for what is an allowable use for what is the current State or local regulation, under the current zoning use.

So a farmer who is plowing his field and trying to grow a crop every day, if he is denied the use of that property, he can only be compensated for the loss of his farming income and he can not claim that it could be a high rise hotel in its place. He only gets compensated for what he was currently doing on the property, and that is just simply an erroneous statement to say anything else.

Mr. Chairman, we need to defeat this substitute. We need to pass the underlying measure.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 15 minutes to the gentleman from New York (Mr. BOEHLERT) and ask unanimous consent that he be permitted to control that time.

The Acting CHAIRMAN (Mr. SIMPSON). Is there objection to the request of the gentleman from California?

There was no objection.

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

Mr. Chairman, I rise in strong support of the substitute. I want to thank all of our co-sponsors for their support, the gentleman from Michigan (Mr. DINGELL), the gentleman from Washington (Mr. DICKS), the gentleman from New Jersey (Mr. SAXTON), the gentlewoman from California (Mrs. TAUSCHER), the gentleman from Illinois (Mr. KIRK), the gentlewoman from California (Ms. MATSUI), the gentleman from Illinois (Mr. JOHNSON), and the gentleman from New Hampshire (Mr. BASS).

That is a pretty good sampling of Congressional centrists because there is a moderate, targeted solution. Our substitute truly reforms the Endangered Species Act without endangering any species or the American taxpayer. And that is where it differs from H.R. 3824.

But before I describe the differences, I want to emphasize the similarities. Both the bill and the substitute eliminate the current requirements for setting aside critical habitat and rely instead on recovery plans to save endangered and threatened species. They are identical. Both the bill and the substitute offer new financial incentives and legal protections to landowners to save species. Both the bill and the substitute require greater involvement of States in decisionmaking involving species. Both the bill and the substitute ensure that the public will have greater information about and a greater role in the decisionmaking.

In fact, while it is hard to quantify, I would guess about 80 to 90 percent of the language in the substitute is identical to the base bill. That is because we developed the substitute by reading through the base bill, once we could seize a copy, and by incorporating into our substitute every word of H.R. 3824 that we possibly could.

What we could not accept was language weakening the Act by, for example, making recovery plans unenforceable, sit on a shelf, gather dust or making it too easy for the Federal Government to take actions that would harm species. And most of all what we could not accept was the new mandatory spending required by this bill which would open the federal purse to developers while eliminating basic taxpayer protections.

I laid out my specific concerns for that provision during the general debate. I urge support for the substitute and opposition to H.R. 3824 as presented.

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

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

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan (Mr. DINGELL).

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

Mr. DINGELL. Mr. Chairman, I rise in strong support of the substitute. It is bipartisan. It is supported by Members of Congress from every part of the country. It is not only a unique and valuable bipartisan piece of legislation, but it is one that will work.

Like the underlying bill, the substitute would repeal the current requirement that the Secretary designate critical habitat for endangered fish, wildlife and plants, before formulating a plan for species recovery. In order, however, to maintain a strong ESA, the substitute gives a strong definition of what is meant to jeopardize continued existence of the species.

Science is the core principle of ESA and we direct the Secretary to issue, and regularly revise, guidance on the acceptable scientific measures. The substitute also creates a Science Advisory Board to peer-review controversial decisions and offer other assistance when necessary.

The substitute is going to provide a helping hand to landowners; dedicated funding for technical assistance to private property owners; a conservation grants program for landowners who help conserve the species on or near

their property; assurances that private citizens can get timely answers from the Fish and Wildlife Service; and reporting requirements so that we know how many applications are really going unanswered, and most importantly, why.

The substitute directs the Federal Government to work with the States on a far broader and more cooperative manner than either current law or the Committee on Resources bill.

The substitute directs the Secretary to first determine whether public lands are sufficient to protect and save the species; if we could protect the species, and save the species in our public lands, in our national forests, our national BLM lands, and in our parks and wildlife refuges, we should do so without placing the burden on private landowners.

Mr. Chairman, this amendment represents a broad bipartisan and fiscally responsible effort to move this process forward in a manner that can not only get an overwhelming vote of support in the House, but which can move on to the President's desk for signature in the same manner as the original Act.

I urge my colleagues to support the substitute, and I say that it will be not only a successful undertaking, but one which will be much more in the interests of the landowners and of the species that we are trying to protect and preserve.

Mr. POMBO. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. GOHMERT).

Mr. GOHMERT. Mr. Chairman, I appreciate the chairman not only yielding me time but, more especially, I appreciate all the work that he has done in this. We heard over and over in the hearings that Democrats really appreciated the way in which the gentleman reached out and started from scratch and negotiated with them. Everything was honest, open, above board and that the gentleman's example was one to be emulated by people that wanted bipartisanship.

Of course, we get to the floor and I am hearing some different things now. But nonetheless I also want to thank those Democrats who, with an open mind and with a regard for fairness, have assisted the chairman in trying to put together a good bill.

Now, it seems to me what this comes down to is a couple of differing philosophies here. On the one hand, you have a philosophy that says private property ownership rights are important and on the other says King George, before we had the revolution, did not have such a bad system. If you were a suck-up to the king, if you paid homage, kind of like the Kelo decision, you were the better friend of the government, then the government was going to treat you good. Never mind your private property rights. We will tell you how you can use your property. We will tell you what you can be compensated for and how and when.

Now, under the substitute amendment, it is pretty clear you do not get an honest answer from the government. Do my private property rights violate or infringe upon some endangered species? Will it amount to an inappropriate use?

Well, maybe it will and maybe it will not. We do not have to give you an answer, but you will have to buy a permit and then under the bill, the chairman has come up with you get a straight answer and you get it quickly. And if you do not get it within 180 days, then you have got your answer as a matter of law.

Under this substitute, all property owners can find out is if they need to be having a habitat conservation plan and if they do, well, gee, the government will help you fill out the application in begging to see what you can do with your own property. We give you a straight answer yes or no under the original bill, and that is how it should be.

The substitute amendment is going to stick the private property owners with the fees. And, boy, I tell you what, when I hear this word ''entitlement'' as if it is going to somebody that is not entitled to something. I tell you, entitlement has a different connotation here. But under this bill, under the original bill it is not an entitlement the way most people see it. If you own property and it is taken away from you, you cannot use it the way you want to because some Federal entity says you cannot. By golly, under our system of law, the way our Constitution is written, you ought to be compensated for it. That is America.

Mr. BOEHLERT. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Maryland (Mr. GILCHREST), a valued member from the Committee on Resources.

Mr. GILCHREST. Mr. Chairman, I think we are here in some sense, past all the clutter of people articulating their most emotional feelings, is a bill set aside some 30 years ago to have an understanding about how we as Members of Congress, the government, can restore the prodigious bounty of God's creation. How do we understand nature's design? How do we use our intelligence to understand the facts behind how nature sustains itself?

Well, in the real world, well, actually, in the real world which is nature, but in the reality of the human condition, we have a lot of other little things that we have to take into consideration. How do you afford an Endangered Species Act? What do you do about private property rights? Do you get enough science? Is the recovery plan appropriate? Do you deal with farmers that have a problem with reintroduced species on the property eating their sheep or their cows?

All these things have to be taken into consideration so that we create a policy that protects private property rights, that brings individuals on those farms and that landscape into the process and helps pay for their contribution to the process, that brings Federal agencies in so they can view the landscape, not from just one small little fly or tiger beetle or some other particular species, but upon which the landscape that supports that species, supports clean water, supports clean air, supports the whole ecosystem including human beings, including us as a species.

□ 1530

We are not separate from clean water. We are not separate from clean air. We are part of nature's design. We are part of this bounty of God's creation. So how do we clarify all these different perspectives and views based on different things that happen in our districts?

Well, we come up with the best available science. We come up with the best available recovery plan. We come up with the best policy for not only the species but for private property, and we come up with the funds that are appropriate to deal with all these issues.

I would tell my colleagues that I feel strongly this is the best policy change, the best reauthorization plan that we can use to deal with the Endangered Species Act that will deal with nature's design and man's impact on nature's design, which includes private property rights, which includes reimbursements for helping to preserve endangered species, and by the way, in this substitute is a provision to pay those private property individuals.

I urge an ''aye'' vote on the substitute.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Mrs. TAUSCHER).

Mrs. TAUSCHER. Mr. Chairman, I thank my good friend from California (Mr. GEORGE MILLER) for yielding me the time, and I join him in offering this substitute, because the bill we are considering today, H.R. 3824, will make it less likely that threatened and endangered species will recover; but today we can support this bipartisan substitute which will update and improve the Endangered Species Act.

I reject the notion, Mr. Chairman, that we cannot preserve both our natural environment for future generations while supporting strong economic growth.

Our substitute gives private property owners the opportunity to protect species on our own land while ensuring they will not face additional regulatory burden. Importantly, this substitute actually discourages the use of private land for public purposes. The substitute says if we can protect a species on public land, we should.

In some cases, private property owners will be asked to mitigate for the effects of preserving threatened and endangered species. However, we can and should provide incentives for private property owners who are complying with the law, and the substitute does just that.

The substitute strikes a careful balance between the rights of private

property owners and the preservation of our natural resources.

I encourage my colleagues to join me and a bipartisan group of Members in supporting this reasonable, better substitute and opposing H.R. 3824.

Mr. POMBO. Mr. Chairman, I yield 2½ minutes to the gentleman from South Carolina (Mr. BROWN).

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

Mr. BROWN of South Carolina. Mr. Chairman, in the 32 years that the Endangered Species Act has been in effect, we have learned a lot of lessons over time and seen the areas where it needs some improvement.

I believe that the gentleman from California (Chairman POMBO) and other members of the House Committee on Resources have worked very hard to come up with a piece of legislation that protects property owners' rights and improves the way that we protect and rehabilitate endangered species, and I am proud to be an original cosponsor of this legislation.

Mr. Chairman, one of the most important aspects of H.R. 3824 deals with private property owners' participation in species recovery. I believe in America it is a fundamental right to be able to own property and to be able to enjoy that property.

I visited a country back during the spring that no citizen in that country could own property or they could lease it for 25 years or 99 years; and, Mr. Chairman, I do not believe America wants to return to that fundamental time where we could not own property, we could just live on property owned by somebody else.

I believe taking property that allows somebody an option not to be able to use their property how they intended, property they used their hard-earned money to purchase is fundamentally wrong.

Specifically, H.R. 3824 will provide certainty for private property owners by allowing landowners to request a written determination as to whether their land use activities will violate the take prohibitions of section 9.

It will also compensate private property owners for the fair market value for foregone use of their property where the Secretary has determined that the use of that property would constitute a take under section 9.

I believe we should protect our endangered species but not at the expense of our private landowners.

Mr. Chairman, there is a better way to protect endangered species; and I believe it is H.R. 3824, the Threatened and Endangered Species Recovery Act of 2005.

I encourage my colleagues to vote ''no'' on the Miller substitute amendment and ''yes'' on the final passage of H.R. 3824.

Mr. BOEHLERT. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from New Jersey (Mr. SAXTON), an informed and valued member of the Committee on Resources.

Mr. SAXTON. Mr. Chairman, I rise in strong support of the bipartisan substitute.

Mr. Chairman, the Endangered Species Act is one of our most farsighted and important conservation laws. For more than 30 years, the Endangered Species Act has sounded the alarm and saved wildlife that we humans have driven toward extinction. Today, we have wolves in Yellowstone, manatees in Florida, and sea otters in California, largely because of the act.

In the southern part of New Jersey, we have bald eagles, timber rattlesnakes, and barred owls because of the protections provided by the Endangered Species Act; and by protecting their habitat, we have protected our own habitat.

I am concerned that the provisions contained in H.R. 3824 would profoundly alter the act and the process. It contains costly, highly problematic, vague new procedures and ill-conceived tradeoffs that will undermine our ability to conserve fish and wildlife for future generations.

Consequently, I join with my colleagues to offer the responsible, bipartisan Miller-Boehlert substitute that reforms the law, answers the concerns of landowners, States, and sportsmen while improving the ability to achieve timely recovery of threatened and endangered fish, wildlife, and plants.

Our amendment provides a creative, workable solution that promises better results for recovering endangered species and reducing burdens on landowners.

The most important tool needed to halt the decline and recover threatened and endangered species is effective habitat protection. H.R. 3824 fails to protect habitat. The bipartisan amendment has strong provisions to do that.

By contrast, our substitute provides a better way of protecting habitat necessary for recovery, with a true focus on recovering species.

There is broad consensus in Congress to reform the Endangered Species Act, Mr. Chairman; but it is vital that in doing so we maintain the integrity of the act and our ability to conserve these species for future generations. The Miller-Boehlert amendment will do just that, and I urge my colleagues to support the substitute.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 1 minute to the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Mr. Chairman, the substitute would be a great improvement for the current Endangered Species Act. It would treat landowners much as we do under the Conservation Reserve Program; but the underlying bill would be a disaster for taxpayers, a new entitlement.

The Secretary shall pay no less than fair market value. I guess the Secretary, if they are feeling good that day, could pay more than fair market value with taxpayers' money, borrowed money; and it does not require the historic, usual, or custom use.

Take a piece of remote farm land, propose a huge development on it; it does not have to be proven to be economically viable. You proposed it; you were going to build 5,000 houses; you were going to make $1,000, $2,000, $5,000 on each house. You would have to be compensated for that. You do not have to prove that this is economically viable, and sequential owners would get that right. You then sell it to your next door neighbor; they can make the same claim. They sell it to the guy down the street, they can make the same claim, on and on and on.

What an incredible new, speculative market, helping the housing bubble, I guess; but this is going to kill the taxpayers and the Federal Treasury. You should vote for the substitute. It will improve the Endangered Species Act.

Mr. POMBO. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. COSTA).

Mr. COSTA. Mr. Chairman, I very much wanted to support the substitute amendment that we are debating this afternoon.

I have the utmost respect for the gentleman from California (Mr. GEORGE MILLER). Both he and I have been afforded the opportunity to spend some time together in the wonderful Sierra Nevada mountains, and I know how much respect and pride he has for America's natural resources. I share it as well.

But there are three areas as it relates to the proposed substitute amendment that I find to be very problematic and important to the constituents that I represent that have had difficulty with this act over the years.

First of all, the definition as it relates to property rights I think is lacking and needs to be worked on in an important way.

Second, as it relates to the discussion of jeopardy to species, it is so vague. How it would be applied to section 7 and other aspects of the measure, I do not believe it is clear and could indicate further need for litigation, which is the current problem and part that we are trying to solve. I just do not believe that the jeopardy definitions under the current proposed substitute amendment could work as they currently are drafted.

Finally, this is very important and I mentioned it in my comments in supporting the bill: there are no clear definitions as it relates to takings for farmers and ranchers, not just in California but throughout the country. Farmers and ranchers, I would maintain, are, in many cases, one of the last bastions of protection for habitat. I mean, think about it. They really want to farm, and they want to be able to maintain their ranches. When we have growth areas throughout the country, like in California, those farms and those ranches are one of the last hedges to urban sprawl and uncontrolled growth. Therefore, having no clear definitions for takings, I think, is critical.

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

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 1 minute to the gentleman from Maryland (Mr. HOYER), the minority whip.

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

Mr. HOYER. Mr. Chairman, I thank the gentleman for yielding me time. The time is insufficient, not only to explain my position, but also the time for consideration of this bill has been insufficient.

Thirty-two years ago, we passed a bill that a Republican President, Richard Nixon, signed to protect and conserve species in danger of extinction. Unfortunately, though, the underlying bill, which has been fast-tracked since its introduction, would substantially undermine the Endangered Species Act. That is what this is about.

For example, this bill would undermine the ability of the responsible Federal agencies to ably perform their oversight roles, and it fails to recognize the importance of sound science to species recovery and restoration.

The bill also creates a fiscally irresponsible, open-ended entitlement program that effectively pays landowners to comply with the law.

In contrast, the bipartisan substitute offered by the gentleman from California (Mr. GEORGE MILLER) has a far more reasoned approach.

It ensures consultation between the Secretary and other Federal agencies with proposed actions that may jeopardize species. It strengthens the definition of what constitutes jeopardy and requires the Secretary to ensure that proposed recovery plans identify and include areas necessary for species survival.

I urge support of the substitute and opposition to the underlying bill.

Mr. Chairman. Thirty-two years ago, Congress passed and a Republican President—Richard Nixon—signed the Endangered Species Act to protect and conserve species in danger of extinction.

Today, there are 1,268 species listed as endangered or threatened in the United States, including 26 in the State of Maryland.

This law is not perfect, but it has been very successful. Roughly 40 percent of listed species have witnessed the stabilization or growth of their populations.

And, less than one percent have been declared extinct since the law's enactment.

The fact is, this law has enabled the very survival of some of our most vulnerable species—including the bald eagle, the gray wolf, the California condor, and the whooping crane.

Unfortunately, though, the underlying bill—which has been fast-tracked since its introduction last week—would substantially undermine the Endangered Species Act.

For example, this bill would undermine the ability of the responsible Federal agencies—the Departments of Commerce and Interior—to ably perform their oversight roles, and it fails to recognize the importance of sound science to species recovery and restoration.

The bill also creates a fiscally irresponsible, open-ended entitlement program that effectively pays landowners to comply with the law.

In contrast, the bipartisan substitute offers a far more reasoned approach.

It ensures consultation between the Secretary and other Federal agencies with proposed actions that may jeopardize species. It strengthens the definition of what constitutes jeopardy and requires the Secretary to ensure that proposed recovery plans identify and include areas necessary for species survival.

The substitute also creates conservation programs that would provide technical and financial assistance to landowners committed to efforts that protect species.

Mr. Chairman, we have a responsibility to protect our environment—as well as the diverse forms of life that share it.

The bipartisan substitute will help us achieve the goal. I urge my colleagues to support it.

Mr. POMBO. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. DOOLITTLE).

□ 1545

Mr. DOOLITTLE. Mr. Chairman, I rise to oppose the substitute and to support the underlying bill.

Mr. Chairman, it has been represented that this legislation is going to cost billions of dollars potentially, and for that reason we should reject it in the fiscal crisis in which we currently live. I just say to you that the CBO, which makes the estimates on everything we do around here, the official word for the Congress to act, projects that the cost would be small over the 5 years. Indeed, and I quote, ''would likely total less than $10 million.'' That was the CBO cost estimate to H.R. 3824.

Fiscal conservatives like myself and Grover Norquist of Americans For Tax Reform support this important legislation. Nothing could be more conservative or more right than a vote for private property. So please vote ''no'' to Miller-Boehlert and ''yes'' to final passage.

I might also note, as a representative of one of the districts that has vast amounts of property in the mountains and so forth, that a lot of small property owners, people who want to use their property, have that ability compromised by the cloud that is placed over their property once they get word of a threatened or endangered species. The bill of the gentleman from California (Mr. POMBO) makes it certain and provides a process for compensation. Otherwise, a small property owner is faced with a big question mark, I call it a cloud. It is like a cloud on your title and it is not easily resolved. It can cost you many, many thousands of dollars and a great deal of worry.

The Pombo legislation eliminates this terrible burden we place on small property owners. Please vote ''no'' on the Miller-Boehlert amendment and ''yes'' for final passage on the Pombo legislation.

Mr. BOEHLERT. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from Delaware (Mr. CASTLE).

Mr. CASTLE. Mr. Chairman, I thank the gentleman for yielding me this time and for his tremendous work on this legislation.

I applaud my colleagues here today for offering this amendment in the nature of a substitute. It goes a long way in making meaningful reforms to the Endangered Species Act without hollowing the fundamental goals of America's flagship wildlife conservation efforts. While there have been successes in species recovery since enactment of the 32-year-old Endangered Species Act, most would agree that it is in need of real reform to make it more effective in species recovery, less demanding on some landowners, and less prone to lawsuits and bureaucracy.

However, pushing the problematic and prohibitively expensive H.R. 3824, the Threatened and Endangered Species Recovery Act through the legislative process has left a sour taste in many of our mouths because it removes the enforceable protections for species recovery and creates the entitlement program for private landowners.

At a time when our country is still coping with the cost of the wars in Iraq and Afghanistan, and most recently with Hurricanes Katrina and Rita, one has to wonder why a rewrite of the Endangered Species Act that includes an entitlement program is even a consideration. This substitute will improve the recovery of more species, put back into place needed enforcement of species recovery plans, and it will do all of this and much more without creating an entitlement program.

This bipartisan substitute is a more pragmatic solution, and I urge my colleagues on both sides of the aisle to support it.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield for the purpose of a unanimous consent request to the gentleman from California (Mr. FARR).

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

Mr. FARR. Mr. Chairman, I rise in support of the underlying amendment, because in the middle of the night, the manager's amendment removed the NOAA fisheries provision in the Interior.

Mr. Chairman, I rise in opposition to H.R. 3824, the Threatened and Endangered Species Recovery Act, as it is currently drafted.

Mr. Chairman, once again California leads the Nation: This time it is for the number of listings for threatened and endangered species. California has more than twice the species listed as any other State.

My home on the Central Coast in the 17th district has more habitat where both endangered plants and animals have lived with commercial farming and ranching. The same climate that produces over three billion dollars annually in agriculture farm gate also is home to the tar plant in Santa Cruz and the California condor in Big Sur.

Another example is the Big Sur area of California where you can find redwoods from

northern California growing next to the yucca of southern California.

I recognize the need for some ''tune-ups'' in the ESA, unfortunately, H.R. 3824 takes a meat axe approach when what we need is a scalpel.

The Endangered Species Act is one of America's most important and successful environmental laws. As one of the pillars of environmental law, it has brought public attention to the impact of human activities on our Nation's wildlife that contributes so much beauty and delight to life as well as growing economic development in environmental tourism.

But it also goes beyond that to declare the preservation of such species as the American bald eagle and the California condor, that glide on the thermals along the Big Sur coastline, a national priority.

While opponents of the law complain that it has restored healthy populations of only 16 of the more than 1,800 species on its endangered list, dozens of other species have dramatically increased their populations because of the law's protection.

Without the ESA these species could easily have succumbed to extinction as corporations and developers decided the fate of their habitats.

That's no small accomplishment. What's more, only nine endangered plants and animals have been lost. We cannot forget that robust biodiversity is absolutely necessary to a healthy human environment.

Ninety-eight percent of the species protected under the Endangered Species Act are still alive today, and many are stable or improving. Without the Endangered Species Act, wildlife such as the bald eagle, American alligator, California condor, Florida panther and many other animals that are part of America's natural heritage could have disappeared from the planet years ago. The Endangered Species Act works because it safeguards the places where endangered animals and plants live.

With the recent discovery of the once thought to be extinct Ivory-billed woodpecker in Arkansas and the Mount Diablo Buckwheat in California, I think this is an opportune moment to highlight the success of many of our conservation efforts. For example, in my home State of California, I am especially proud of the conservation and management efforts that have helped significantly restore populations of California condor, the Southern sea otter, the winter run Chinook salmon, the Least Bell's Vireo songbird, the California Brown Pelican, and the California gray whale.

Mr. Chairman, it is fitting that Congress is moving to reauthorize ESA on Sea Otter Awareness Week since the sea otters are a success story in my district. While the Southern Sea Otter still has a long way to go before being delisted, the increased numbers of sea otters along my district shoreline have greatly contributed to our tourism economy. Studies show sea otters draw tourists to my district where they spend money on lodging, restaurants and other merchandise.

The dramatic turnaround realized by the once thought extinct Southern sea otter is a result of two critical protection laws—the ESA and the Marine Mammal Protection Act, the Southern sea otter population grew from less than 100 otters in the 1930's to the present total of 2,800. Scientists maintain that it will take 3,100 otters to make a population stable enough to even consider removing them from the Endangered Species list and many threats remain. As reauthorization of the ESA moves forward this week in the House, I will fight to keep it strong enough to successfully overcome these threats to the Southern sea otter.

Despite success stories, like this we need to be aware that more needs to be done. At this time, more than 1,000 species in the U.S. and abroad, are designated as ''at risk'' for extinction. One small step is to increase awareness about the seriousness of the circumstances facing many of these endangered species and educating the public about these species.

I know the ESA has it's problems and the proponents of this legislation have brought many of those cases to light today.

Any law that has been on the books for as long as the Endangered Species Act will have issues—Some of these issues deal with inadequate funding, and some with the law itself.

I agree we need to tweak and update the current law, to make changes, but we do not need to completely rewrite this critical protection legislation.

Mr. Chairman, I want to use the rest of my time to discuss a specific provision to move the National Oceanic and Atmospheric Administration's ESA responsibilities to the Department of Interior.

This is an awful idea, and it should have been vetted within the Resources committee before being brought to the floor.

As you know, many of our constituents across the country care deeply about, whales, salmon, and sea turtles. Taking ESA responsibilities away from the experts at NOAA, will put these animals at further risk.

Giving jurisdiction of the ocean animals, whose survival is most at risk, to an agency without ocean expertise is ludicrous. Taking ESA responsibilities from NOAA will split jurisdiction on marine animals, creating a management nightmare and further fracturing our marine management.

For example, Pacific salmon will be a management nightmare. Fish in one river that arrive in spring will be managed by the Department of Commerce, while fish that arrive in that same river during fall will be managed by the Department of Interior. To make things more complicated, who will manage these fish when they are all mixed together in the ocean? Will the fishermen have to choose from two sets of fishing regulations, one from the Department of Commerce and the other from the Department of Interior?

As the Pew and US Commissions on Ocean Policy recommended, we need to consolidate our ocean management under one roof, Specifically the National Oceanic and Atmospheric Administration in the Department of Commerce, to be effective. Further splitting our ocean management is only going to create more problems.

Mr. Chairman, let's not send the message that this Congress is more interested in private property development than in the common good of America the beautiful, from sea to shining sea.

The action this House takes today is a step in the long process to reauthorizing the Endangered Species Act. I urge my colleagues not to take the meat axe approach but to support the bipartisan Miller/Boehlert substitute.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 1 minute to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Chairman, I will support the bipartisan substitute amendment by my colleagues, the gentleman from California (Mr. GEORGE MILLER) and the gentleman from New York (Mr. BOEHLERT) because it is an honest effort to make it a better alternative that does not include the most egregious parts of the underlying bill.

I would, however, just make one point. I take modest exception to the implication that was made from the other side of the aisle that somehow the Endangered Species Act and environmental legislation had something to do with the tragedy we witnessed unfurl in the Katrina-affected region. The GAO presented a report yesterday saying that the delays in the project, that none of the changes are believed to have had any role in the levee breaches. And, in fact, Corps officials believe that the flooding would have been worse if the original proposed design had been built. That was presented to Congress yesterday by the GAO.

This is contentious enough, Mr. Chairman, so it would be nice if we could stick to the facts and not make implications that somehow the environmental legislation had anything to do with that tragedy. Knowledgeable people understand that in the long run environmental legislation, had it been enforced and applied uniformly, would have made things better.

Mr. Chairman, I submit for the RECORD the GAO report I just referred to.

LAKE PONTCHARTRAIN AND VICINITY HURRICANE PROTECTION PROJECT

WHAT GAO FOUND

Congress first authorized the Lake Pontchartrain and Vicinity, Louisiana Hurricane Protection Project in the Flood Control Act of 1965. The project was to construct a series of control structures, concrete floodwalls, and levees to provide hurricane protection to areas around Lake Pontchartrain. The project, when designed, was expected to take about 13 years to complete and cost about $85 million. Although federally authorized, it was a joint federal, state, and local effort.

The original project designs were developed based on the equivalent of what is now called a fast-moving Category 3 hurricane that might strike the coastal Louisiana region once in 200–300 years. As GAO reported in 1976 and 1982, since the beginning of the project, the Corps has encountered project delays and cost increases due to design changes caused by technical issues, environmental concerns, legal challenges, and local opposition to portions of the project. As a result, in 1982, project costs had grown to $757 million and the expected completion date had slipped to 2008. None of the changes made to the project, however, are believed to have had any role in the levee breaches recently experienced as the alternative design selected was expected to provide the same level of protection. In fact, Corps officials believe that flooding would have been worse if the original proposed design had been built. When Katrina struck, the project, including about 125 miles of levees, was estimated to be from 60–90 percent complete in different areas with an estimated completion date for the whole project of 2015. The floodwalls along the drainage canals that were breached were complete when the hurricane hit.

The current estimated cost of construction for the completed project is $738 million with the federal share being $528 million and the local share $210 million. Federal allocations for the project were $458 million as of the enactment of the fiscal year 2005 federal appropriation. This represents 87 percent of the federal government's responsibility of $528 million with about $70 million remaining to complete the project. Over the last 10 fiscal years (1996–2005), federal appropriations have totaled about $128.6 million and Corps reprogramming actions resulted in another $13 million being made available to the project. During that time, appropriations have generally declined from about $15–20 million annually in the earlier years to about $5–7 million in the last three fiscal years. While this may not be unusual given the state of completion of the project, the Corps' project fact sheet from May 2005 noted that the President's budget request for fiscal years 2005 and 2006, and the appropriated amount for fiscal year 2005 were insufficient to fund new construction contracts. The Corps had also stated that it could spend $20 million in fiscal year 2006 on the project if the funds were available. The Corps noted that several levees had settled and needed to be raised to provide the level of protection intended by the design.

Mr. POMBO. Mr. Chairman, I yield 2 minutes to the gentleman from Utah (Mr. BISHOP).

Mr. BISHOP of Utah. Mr. Chairman, I appreciate the opportunity to stand here and speak about this particular substitute. As it was brought to the Committee on Rules last night, I noticed that it has been consistently called the ''bipartisan substitute.'' It does have eight cosponsors that are bipartisan. But I would note that the actual bill itself has 95 co-sponsors and it has four times as many Democrats on the bill itself as the so-called ''bipartisan substitute.'' So I would like to speak a bit about the bipartisan bill that is actually before us as well.

I have one of my good constituents, Mr. Child, who bought 500 acres of land and found an endangered species on it. The snail. The problem is not that the snail was on it. The problem is he also had 11 geese, and the Federal Government threatened to sue him at the rate of $50,000 for every snail the geese happened to consume. This meant that the Federal Government went in there and captured all 11 geese, forced them to vomit to find out how many snails were actually consumed by the geese.

This gives us some idea why a small private property owner, as soon as he finds an endangered species, the goal is to get rid of the endangered species. And the problem is not the big guys. The problem is that 90 percent of the habitat for endangered species is on private property. Our goal, if we are really serious about trying to preserve endangered species of all kinds, is to get control and cooperation with small private property owners.

The main bill does that by providing a grant program for the cooperation, whereas the substitute eliminates that provision. It puts us backwards to the same old process of trying to threaten and intimidate, which does not work. That is why the recovery rate is so abysmally low with the Endangered Species Act. In fact, it moves us somewhat backwards by weakening scientific standards and creating potential for more litigation.

We have agencies like the U.S. Fish and Wildlife Service which year after year is bankrupt by rampant litigation. This means they have little money and little funds left for actual recovery of species. What we need to do is to make sure that we are engaging the private property owners so that they assist and work in cooperation with the Federal Government. You cannot do that by supporting both the substitute and the main bill.

Mr. POMBO. Mr. Chairman, I yield for the purpose of a unanimous consent request to the gentleman from California (Mr. GALLEGLY), a member of the Committee on Resources.

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

Mr. GALLEGLY. Mr. Chairman, I appreciate the opportunity to stand in strong opposition to the substitute and in strong support of the underlying bill. Unfortunately, I may not be able to stay for the vote because there are fires in my district and my neighborhood is being evacuated.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. PELOSI), the minority leader.

Ms. PELOSI. Mr. Chairman, I thank the gentleman for yielding me this time, and I thank him for his extraordinary leadership on behalf of the American people in terms of the air they breathe, the water they drink, in protecting God's beautiful gift to us, this beautiful legacy that we have in our environment, and I commend the ranking member, the gentleman from West Virginia (Mr. RAHALL), for his leadership as well. He has been a champion as well in this area.

Mr. Chairman, I rise in opposition to this legislation which would critically undermine protections for our Nation's endangered species. I support the bipartisan substitute that the gentleman from New York (Mr. BOEHLERT) is putting forth with the gentleman from California (Mr. GEORGE MILLER), and commend them for this good proposal because it provides common sense proposals to strengthen the Endangered Species Act, and yet give a common sense enforcement to it.

I rise as House Democratic leader, of course, in support of the substitute, but I also rise as a mother and as a grandmother; mother of five and grandmother of five. My husband always says I just like to know how long into a speech it is before you start talking about your grandchildren. But we teach our grandchildren, and I did teach my children when they were little, that everything in nature is connected and that there is a reason, a balance to it all, this beautiful web of life that is nature. Today's bill of course in this debate points out what value we place on that.

With the passage of the first Endangered Species law in 1966 and the modern Endangered Species Act in 1973, Congress made a commitment to future generations of Americans, at that time that would be our children, my grandchildren. We made a commitment to maintain the web of life and preserve the myriad species that form an essential part of our natural heritage. We must keep that commitment for the sake of our children and our grandchildren.

The Endangered Species Act is a safety net for wildlife, fish and plants that are on the brink of extinction. When other environmental laws have not provided enough protection, the Endangered Species Act is there to give endangered species one last chance to survive. Of the 1,800 species protected by the law, only nine species have been declared extinct. An impressive achievement.

Earlier in the debate, I heard the gentleman from Washington (Mr. DICKS) speaking, and I see he is still in the Chamber, and I thank him for his very enlightening presentation about how many species have been saved during the life of this law. That was very inspiring and encouraging. The safety net saved our majestic national symbol, the bald eagle, and the peregrine falcon. It saved the Florida manatee, the grizzly bear, the southern sea otter, sea turtles, and many other animals and plants, all important in the balance of nature.

On the floor of the House, week after week, month after month, the Republican leadership pushes through legislation shredding the safety net for children, for veterans, for the elderly, for the poor, for the sick and the disabled, so it comes as no surprise today that they bring a bill that will shred the safety net for the endangered plants and animals. This is really unfortunate, because, again, it all relates to the balance of nature.

We find these words from the psalms: ''How many are your works, O Lord! In wisdom you made them all; the earth is full of your creatures. There is the sea, vast and spacious, teeming with creatures beyond number, living things both large and small.'' In wisdom God has made them all ''living both things both large and small,'' and in wisdom we should preserve and protect them.

We have yet to learn the roles that many creatures play in the web of life, and we are yet to discover the practical effects many species may bring to humankind. One example in California is the Pacific forest yew. Once considered virtually useless, a trash tree, became extremely valuable as the source for the anti-cancer drug Taxol. Many of us have dear friends or family members whose chances of survival have been increased by the use of Taxol.

The bill we consider today is loaded with provisions that will make it harder to preserve endangered species. It undermines sound science by directing the Secretary of the Interior, a political appointee, to issue regulations

locking in a static definition of specific acceptable scientific data. It repeals all protections from pesticides, it drops the requirement for other Federal agencies to consult with wildlife experts at the Fish and Wildlife Service or the fisheries experts at the National Marine Fisheries Service. It establishes an extraordinarily new entitlement program for developers and speculators that requires taxpayers to pay them unlimited amounts of money, and the list goes on and on.

Reasonable people agree that there are ways to improve the Endangered Species Act. Many people who care very, very much about the environment, about the balance of nature, about the web of life have concerns about the enforcement. I think that is why it is important for Congress to be very clear what our intent is, so that intention of Congress and that clarity of our voices here will give guidance to those who enforce the law so that is the implementation and the execution of it is not in a way that is so risk averse as to be counterproductive.

We can do better than the current law, but it is hard to do worse than the legislation being proposed by the gentleman from California (Mr. POMBO). That is why my colleague, the gentleman from California (Mr. GEORGE MILLER), joined by a group of Members and also the gentleman from New York (Mr. BOEHLERT), taking the lead on the Republican side, have developed a substitute to this bill that gives landowners assistance and incentives to protect endangered species, strengthens the science behind the Endangered Species Act, and requires improved coordination with the States.

□ 1600

I urge my colleagues to strengthen the Endangered Species Act by voting for a bipartisan substitute and opposing the underlying bill, and in doing so, to truly, as Members of Congress, show our children that we mean it when we say that we all know that everything in nature is connected and it is important to maintain the balance, the web of life.

In Isaiah in the Old Testament, we are told that to minister to the needs of God's creation, and that includes our beautiful environment, is an act of worship. To ignore those needs is to dishonor the God who made us.

Let us minister to the needs of God's creation. Let us support the substitute and oppose the underlying bill.

Mr. BOEHLERT. Mr. Chairman, I yield 1½ minutes to the gentleman from Connecticut (Mr. SHAYS).

Mr. SHAYS. Mr. Chairman, I rise in support of the Miller-Boehlert substitute amendment because I believe we will not have a world to live in if we continue our neglectful ways.

The Endangered Species Act has been a guiding force for the preservation of species threatened with extinction for over 30 years. It is vitally important that we not alter it in any way that could result in the protection it provides from being compromised.

The Endangered Species Act is working. According to the U.S. Fish and Wildlife Service, 99 percent of the species ever listed under the ESA have been prevented from going extinct, and 68 percent are stable or improving; but the recovery plans in place may need 50 years to restore these to relative abundance.

The amendment would prevent the creation of a mandatory entitlement program for private property owners which is likely to be hugely expensive.

The substitute also restores the role of science in the Endangered Species Act. The underlying bill appears to give the opinions of individuals without any scientific expertise equal standing with those of scientists and repeals protections against hazardous pesticides.

I oppose H.R. 3824 and any efforts to weaken the Endangered Species Act. I support the Miller-Boehlert substitute.

Mr. POMBO. Mr. Chairman, I yield 2 minutes to the gentleman from Utah (Mr. CANNON).

Mr. CANNON. Mr. Chairman, I would like to thank the chairman of the full committee, the gentleman from California (Mr. POMBO). I rise in opposition to the substitute amendment and in support of the underlying bill. I would like to congratulate the gentleman from California (Mr. POMBO) on many, many years of hard work on this issue.

I have to say, I am astonished to be here today. By my count, the number of Democrats who voted for the underlying bill in committee was greater than the number of Democrats who voted against it. The minority leader just told us that reasonable people can agree that the Endangered Species Act can be improved. I think that is the fundamental starting place, and it is nice to be debating the substitute, because we are talking about a fundamentally defective process.

On the other hand, the underlying bill is a good bill. The substitute has some great defects. In the first place, it raises the regulatory bar. It makes it more difficult. In the second place, the substitute does nothing to provide straightforward answers to property owners. In other words, the fundamental problems, which have caused such division in America, are not dealt with in the substitute bill. They do not provide compensation to a landowner.

If you are a landowner and the town or the State or country builds a highway, the land gets condemned and you get paid for the land. We need to have some kind of a compensatory process, and we do not have that in the substitute bill.

The substitute bill replaces the dysfunctional critical habitat concept with something far worse. They talk about lands necessary for recovery. What that is, I do not know that we can figure that out until we have done a lot of litigation and have been through a great deal of pain in America.

The substitute removes the incentives and creates a voluntary program. And a landowner, after he volunteers, could get 70 percent of his costs back for participating in the program. It does not give him any grants or any contractual rights. It does not pay him for the cost. I urge support of the underlying bill and opposition to the substitute amendment.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 1 minute to the gentleman from West Virginia (Mr. RAHALL).

Mr. RAHALL. Mr. Chairman, I rise in support of the substitute amendment. It will significantly improve the species recovery which is an important part of our negotiating process that led us up to this bill on the floor today.

It will assist landowners in their efforts to conserve species. The substitute will also include a statutory definition of jeopardy that will ensure that Federal agency actions do not diminish recovery. That is a very important part of giving up the critical habitat designation, that we have an improved consultation process and an improved definition of what constitutes jeopardy.

Mr. Chairman, I urge strong support of this bipartisan substitute and, again, opposition to the underlying bill.

Mr. BOEHLERT. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. KIRK).

Mr. KIRK. Mr. Chairman, I would respectfully disagree with the minority leader that this bill is not Republicans versus Democrats. This is largely east versus west with western Democrats supporting the underlying bill and eastern Republicans opposing.

For me, I would quote from the House Republican majority Committee on the Budget that warned that the underlying legislation ''creates a new entitlement program.''

This spring, moderates of the Republican Tuesday Group and conservatives of the Republican Study Committee worked together to put forward budget reforms to end deficit spending. The heart of our reform was a prohibition against new entitlement spending. Entitlement spending already makes up two-thirds of all Federal spending. Our deficit, because of Hurricane Katrina and related costs, will top over $500 billion this year; and I do not believe that we can afford a new entitlement program.

I would urge our chairman to reform the provisions in the bill, to keep the spending within the budget, and make it subject to appropriations. The grant portion of this bill that compensates landowners is responsible. The mandated spending portion of the bill is not responsible.

CBO warns that in their score of this bill both costs and litigation will go up under the bill. Following CBO's fiscal advice, I would urge adoption of the more fiscally responsible substitute.

Mr. POMBO. Mr. Chairman, I yield 3 minutes to the gentleman from Louisiana (Mr. JINDAL).

Mr. JINDAL. Mr. Chairman, I rise in opposition to the substitute and in favor of the underlying bill.

An amendment offered by the gentleman from California (Mr. RADANOVICH) in committee, which was accepted without objection, will allow local officials to perform vital work needed to prevent the potential threat of catastrophic flooding. I rise in opposition because this needed amendment is stripped out of the substitute.

We know how complex Federal bureaucracy can be, but in times of emergency nothing is more important than human health and safety. My disaster declaration and protection provision in this bill must be preserved.

When critical levee repairs are needed to protect human life, time is of the essence. Appropriate action to repair levees must be done quickly and cannot be delayed by cumbersome paperwork and bureaucracy. The ESA must be made flexible enough to allow timely repair and maintenance of levees before disaster strikes. Any efforts to improve ESA must include this provision which recognizes protecting the public from impending danger must take priority.

The amendment that I offered recognizes that when critical repair, reconstruction, or improvements to levee systems are needed, the Federal Government should not be an impediment to targeted, urgent public safety work that must happen.

The amendment that we offered frees local agencies from lengthy processes only for those projects where critical repairs are needed to avoid the loss of human life due to natural disaster. Current agency regulations only allow for an expedited consultation in a Presidentially declared disaster area for levee repair, but they only allow that after flood waters have topped or broken through levees and devastated the communities that they are designed to protect.

The amendment that we offered in committee is narrowly tailored to give local flood protection officials the same flexibility to make needed repairs; but importantly, it does so before the onset of deadly flooding.

It is ironic that the Fish and Wildlife Service and NOAA Fisheries have recently implemented emergency procedures enabling them to expedite the otherwise lengthy consultation process that has to occur before the reconstruction of levees and other flood protection infrastructure ravaged by Hurricane Katrina. Thank God they did implement these procedures, because time is of the essence.

Remarkably, however, these emergency guidelines are only invoked after disaster strikes. There is no provision under existing law that allows for emergency measures to be taken prior to the onset of danger. The Federal Government will only expedite vital repair work that will protect people from deadly floodwaters if they first suffer the calamity that we are trying to avoid.

My colleague advised in California back in 1990 and 1991, the Corps of Engineers warned the community that their levees needed repair work. It took 6 years. Tragically, right as they got approval, a flood occurred and three people lost their lives. We must not allow this kind of avoidable tragedy to happen again.

The amendment that we offered reflects the commonsense notion that local flood protection districts should not have to haggle with Federal agencies for more than 6 years to repair a levee, particularly when that levee has been designated as posing a potential threat to human life. For that reason, I stand opposed to the substitute.

Mr. POMBO. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. CALVERT).

Mr. CALVERT. Mr. Chairman, reforming the Endangered Species Act is long overdue. Today the House has an opportunity to enact significant improvements to ESA that restore balance and protections to species as well as landowners.

One of the most effective ways to protect species habitat is through development of habitat conservation plans. The bill improves and encourages habitat conservation plans by codifying the no-surprise policy and eliminating unnecessary red tape that required multiple consultations regarding already approved actions.

These important provisions will free up limited government and landowner resources and ultimately improve conservation of species habitat by encouraging more habitat conservation plans.

My district in California is home to a large comprehensive habitat conservation plan both in Riverside and Orange counties. In fact, the West Riverside County Multi-Species Conservation Plan is the largest in the Nation covering over 1 million acres of land. The plan cost tens of millions of dollars to develop, years to put into effect, and will cost upward of $1 billion to implement. Once fully implemented, 500,000 acres in western Riverside County will be set aside for species habitat.

It is our responsibility to ensure when landowners and local authorities undertake an extensive planning like that back in my district, the Federal Government lives up to its part of the agreement. This bill does just that and removes unnecessary regulatory burdens that do nothing to benefit the species.

I just discovered in the Miller-Boehlert substitute that the habitat conservation plans that we put a lot of time in to work out in Southern California may be put at risk. That would be very, very difficult for areas that spent large amounts of money to put this into effect, not to mention time. I want to make sure that we defeat the substitute, and I thank the gentleman from California (Mr. POMBO) for working with me to include language that improves habitat conservation plans.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield to the gentleman from Massachusetts (Mr. MARKEY) for the purpose of a unanimous consent request.

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

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

Mr. Chairman, I rise in support of the Boehlert-Miller substitute and against the underlying bill.

A major factor forcing threatened and endangered species towards extinction is the loss and deterioration of habitat necessary for survival. We cannot expect a species to recover without first ensuring that it has the habitat in which to do so.

The Majority has just presented us with this manager's amendment to the underlying bill that would delete not only the protections and enforceability afforded under the designation of critical habitat but also the broader habitat protection provided by the jeopardy definition.

We have arrived at a situation where the underlying bill will offer no enforceable protection for the habitat that endangered species need to survive, but will only create a blizzard of unenforceable bureaucratic paperwork which, in the words of Shakespeare, would be "full of sound and fury but signifying nothing."

The Boehlert-Miller substitute would retain the enforceable protections for habitat provided under a strong jeopardy definition and I urge its adoption.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 30 seconds to the gentleman from Washington (Mr. INSLEE).

Mr. INSLEE. Mr. Chairman, what possible reason is there for taxpayers to have to pay three, four times for the same protection of endangered species?

Under the bill as written, the taxpayer would have to pay a landowner once for the privileges of not building the casino. That landowner could then sell it to his brother. The taxpayer has to pay his brother a second time for the same project. His brother could sell it to his cousin, and the taxpayer would have to pay a third time for the same casino. This is a failure in drafting. Reject this bill.

□ 1615

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

Mr. WALDEN of Oregon. Mr. Chairman, first of all, to respond to my colleague from Washington, a simple deed restriction takes care of that. They do not go through this and pay and pay and pay and pay. They put it in the deed when they cut the deal, and they pay fair and just compensation for taking somebody's property. That would be stupid to do that over and over. They do that in the deed, and that is a restriction that carries with the property.

Let me talk about a couple of the differences between these two plans and why I support the underlying Pombo bill. Among other things, section 10, page 18, they give 3 years, the government, to come up with a recovery plan.

Our plan says 2 years. So if they want to recover species, we say get it done in 2 years with the recovery plan; they say 3.

If my colleagues want to talk about spending, they create a new science board. GS15s, section 20 in the bill, $1 million a year. CBO says we will compensate private property owners to the tune of maybe $6 million in the first 5 years. That is all they score out. This, $1 million a year for bureaucrats, and private property owners are left carrying their own costs. That is not fair and right in America.

So if the Members want bigger bureaucracy, pay GS15s here in Washington, a total of $1 million combined over the year, and they get just as much as we are talking about trying to help out the private property owners.

And if they ask the government for some sort of safe harbor for entering into a habitat conservation program, basically they get back a written determination under our provision that prevents them from being prosecuted, from the government's coming back and double-timing them, saying, yes, go ahead and we will not prosecute if you do everything you said you were going to do. Under the alternative, as I read it, whatever they do, they would have to get an incidental take permit and then they still do not have any kind of protection from the government's coming back again after them.

So what we are trying to do is create cooperative partnerships with private landowners through new conservation programs and give certainty over 10-, 20-, and 30-year periods to recover species and set up recovery programs that would come together in 2 years, not 3, and provide for compensation when somebody loses their farm or a portion thereof just as if a highway ran through it.

Mr. POMBO. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. CARDOZA), co-author of the underlying bill.

Mr. CARDOZA. Mr. Chairman, I rise at this point to make a clarification and to, again, speak to my opposition to the substitute.

The first clarification is that when the Fish and Wildlife Service compensates an owner for a restriction on his property, it is done through a deed restriction or a fee title. So this claim that subsequent owners can make the same claims against the Fish and Wildlife Service is simply inaccurate. When they buy an easement, they buy a perpetual easement unless the Secretary were to make a mistake, and, simply, that is just not the way we do it in law currently.

The second point, and the main objection that I have to the substitute goes to the fundamental fifth amendment protection under the Constitution that says that when we take someone's property, we compensate them for it. And that is what the Pombo bill does, and that is what the substitute does not do.

I would ask my colleagues to cast an ''aye'' vote on the underlying bill and oppose the substitute.

The Acting CHAIRMAN (Mr. SIMPSON). The Chair advises Members that the gentleman from California (Mr. GEORGE MILLER) has 3½ minutes remaining, the gentleman from New York (Mr. BOEHLERT) has 3 minutes remaining, and the gentleman from California (Mr. POMBO) has 4 minutes remaining.

The Chair would further advise that the order of closing is the gentleman from New York (Mr. BOEHLERT), the gentleman from California (Mr. GEORGE MILLER), and the gentleman from California (Mr. POMBO).

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

This all boils down to a principal difference. There are a number of differences, but a principal difference. The substitute does not have the controversial section 13 in it; the base bill does.

Here is something that could actually happen under section 13. A developer could buy a parcel of land knowing that part of it could not be used because of the presence of endangered species. The developer then could request permission to build, say, a hotel on the property without doing much more than outlining the proposal on the back of an envelope. The developer would not even have to try to get necessary State permits or local zoning variances before submitting a claim.

When the Federal Government says that the hotel could not be built, that developer could get a payment from the government based upon what his appraiser said it was worth without providing much evidence that the project was realistic or serious. Then the developer could propose to build a landfill on the same site and go through the same process again and get money from the government again. Then the developer could propose to build a store on the same site and get money from the government again because the store could not be built.

In the meantime, the developer could proceed with the same project on other portions of the property, make substantial profits on his property, and never have that affect the steady stream of payments coming from the government from what was always known to be a problematic site.

This is no exaggeration, and it shows how right the provision is for abuse. The bill puts the taxpayers at risk. That is why the same concerns that we have expressed to our colleagues on the floor today have been expressed by the administration in the Statement of Administration Policy, which is otherwise supportive of the bill, in part because of the provisions that we also have in our substitute. The Statement of Administration Policy warns: ''The new conservation aid program for private property owners provides little discretion to Federal agencies and could result in a significant budgetary impact . . . The bill would affect direct spending. To sustain the economy's expansion, it is critical to exercise responsible restraint over Federal spending.'' We want to help exercise responsible restraint by eliminating section 13.

Mr. Chairman, there is no doubt about it. The Endangered Species Act has to be revisited. That is the responsible thing to do. The Committee on Resources has put a lot of hard work into and has come up with a product that, in many respects, is just wonderful, necessary. That is why we embrace the product. But section 13 is absolutely, totally unacceptable for a whole lot of very good reasons, and it is unacceptable to the taxpayers of America because, boy, does this impose a burden on them.

I urge support for the substitute. It is responsible. It is bipartisan. It is thoughtful. It eliminates section 13. It provides more opportunity for good science. It emphasizes the need of small property owners, and we want to help them.

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

Mr. GEORGE MILLER of Florida. Mr. Chairman, I yield myself the balance of my time.

I thank the gentleman from New York (Mr. BOEHLERT), the cosponsor of this legislation, and all the rest of the cosponsors for their support of this amendment. I want to thank all of my colleagues who joined in this debate today, and I think that it is important that we adopt this substitute.

Earlier the gentleman from California (Mr. CARDOZA) got up on the floor, and he was upset that somebody had said that the underlying bill would eviscerate the Endangered Species Act. Yesterday, that statement would have been true. He had a right to be upset. But today when the manager's amendment was offered and was accepted, the Endangered Species Act was eviscerated and let me tell you why: Because the bill, prior to that amendment, contained this language: The term to jeopardize the continued existence means, with respect to any agency action, that action reasonably that would be expected to significantly impede directly or indirectly the conservation long-term of the species in the wild. That language was struck in the manager's amendment when you struck on page 4, strike lines 3 through 11 and redesignate.

The point is this, there is now no statutory protection in law if this bill is passed for the protection of this species because there is no standard of jeopardy. That was not true last night, it was not true this morning, but it is true this afternoon. You can shake your head until the cows come home. The fact of the matter is, that is what took place in this amendment. So the evisceration is now complete because there is no standard in the bill for jeopardy.

Ladies and gentlemen, it is important that we accept this amendment,

this bipartisan substitute, because this is our last best chance to hold on to what this Nation holds dear, and that is the protection and the diversity of the species that inhabit this Nation, and the effort that we have made as a Nation to make sure that our actions and governmental actions, and the actions of others, do not destroy and bring to extinction these species.

Those protections that we have provided since the inception of this act when the gentleman from Michigan (Mr. DINGELL) and the gentleman from Wisconsin (Mr. OBEY) and others were here to support it, those protections have served this Nation well. We have a chance today to have a commonsense reform of that effort. Yes, this act should be changed; it is 30 years old, and we are about to do that with this substitute, because we provide the balance for the protection of these species and the protection of the landowners. What we do not do is what they do in the underlying bill; that, if a landowner has a proposal and a notion of how he might want to use his or her land, the Secretary then has to make a determination of whether or not a take might be possible.

No take is required. The Secretary makes no scientific study, makes no scientific investigation, just makes a determination. Does the landowner sue on that? Does the government sue to protect themselves? Then, if the Secretary says so, the landowner is compensated no longer by fair appraisals, because appraisals only bind the Secretary, they do not bind the landowner. Pretty soon, the U.S. Attorney is going to have to go in to protect the treasury of the United States because, as the gentleman from Illinois (Mr. KIRK) pointed out, this is a new entitlement with direct spending. That is why the Bush administration says that it will generate new litigation, further divert agency resources, and have significant budgetary impact, because that is what they have done.

That is why the substitute provides you the means by which to reform, streamline, and make more efficient the Endangered Species Act at the same time, while protecting not only the landowners, but also protecting the taxpayers of this Nation from a raid on their Treasury when, in fact, no take has taken place.

We all share the gentleman from California's concerns and beliefs that, when your land is taken, you should be reimbursed; when your land is not taken, you should not be reimbursed.

I ask support of the Boehlert/Miller substitute.

Mr. POMBO. Mr. Chairman, I yield myself the balance of my time.

Well, GEORGE, we have come a long ways. We have come a long ways, because, as you know, I have been working on this since I got here, and when I first started, all I heard was there is nothing wrong with the act that a little bit more money would not solve. Here we are today, everybody saying that there is problems with the law and we have to fix it. So we have come a long ways, and I am being attacked for spending more money under the act on the reauthorization.

First of all, I wanted to respond to your comments on jeopardy. We stay with current law. That is what is in the bill, is current law. We stay with current law. We had a different definition in the bill originally, and that caused the administration to say that it would result in new litigation, so we said we will stay with current law; and that eviscerates the act, staying with current law that they have so dutifully defended.

I have heard here today that the underlying bill guts, eviscerates, euthanizes, is unreasonable, and then I get a handout that talks about how much the substitute is like the base bill. When it comes to critical habitat, both bills use identical language. When it comes to providing certainty for landowners, both bills contain identical language. When it comes to providing incentives for landowners, both bills contain identical language, and on and on and on, about how much alike the bills are; and yet they gut, eviscerate, euthanize, and they are unreasonable.

The gentleman from New York (Mr. BOEHLERT) I think is right about this: The real difference between the two bills is how private property rights is protected.

The gentleman from West Virginia (Mr. RAHALL) and I spent months debating the meaning of a word, and we finally came pretty close to getting a bill put together. The substitute represents, I think, a step back in the negotiations in that everything that you wanted that you did not get, you put in the substitute; change the words a little bit so that they really do not mean anything. There is no protection for private property owners. I remember 10 years ago, I introduced a bill on endangered species, and one of the major provisions in that bill was to utilize public lands, and I got ripped over it because 90 percent of the species have their habitat on private land. You cannot just put the focus on public lands. You cannot. But if it is going to work, if we are truly going to put the focus on recovery, if we are truly going to try to bring these species back from the brink and do the responsible thing, private property owners have to be part of the solution.

We hear a lot of horror stories about things that have happened in my district and Mr. CARDOZA's district and Mr. COSTA's district and Mr. BACA's district, in your district, Mr. MILLER.

□ 1630

If you do not do something to protect the property owners, those stories are never going to stop. The act has been a failure in recovering species. Now we can all agree.

When it comes to protecting private property owners, regardless of what all the hot rhetoric is, what the underlying law says is that if you meet State and local zoning laws, if you go through the process of getting that approval, then you have something. If you are a farmer farming your land and they tell you that you cannot farm your land anymore, you can get compensated for agriculture land.

If you are a developer who has gone through the process, gotten your land zoned and they tell you you cannot use it, then that is what you get compensated for. But once land has that restriction on it, whoever buys it cannot come back again and say they want something else, because they know it is restricted.

So this argument is totally out of line and off base. We protect private property owners. That is what leads to recovery. The substitute just does not.

Vote against the substitute, support the base bill, and let us move on with some decent legislation.

ANNOUNCEMENT BY THE ACTING CHAIRMAN

The Acting CHAIRMAN (Mr. SIMPSON). The Chair would advise all Members that it is improper to walk in front of a Member in the well who has the floor.

Mr. LARSON of Connecticut. Mr. Chairman, I rise today in opposition to the Threatened Endangered Species Act, the so-called "reform" that will dismantle our Nation's most fundamental wildlife protection law and in support of the bipartisan Miller, Boehlert, Dingell, Gilchrest, Dicks, Saxton, Tauscher, Kirk Substitute. I am disappointed at the missed opportunity for the House to strike a real balance in the protection of rare species facing extinction and landowners from future government constraints.

While I agree that the current Endangered Species Act, ESA, needs improvements and updating, the controversial bill before us today does little to improve the current ESA. Among other things, the Threatened and Endangered Species Act would remove the federal protection of critical habitats that are necessary for the recovery of a species. I also find it extremely disturbing that my colleagues are so intent on establishing an entirely new entitlement program to pay landowners for compliance at the taxpayers' expense at the same time they are working so hard to privatize entitlement programs like Medicare and Social Security.

I believe there is more we can do to support the goals of the ESA. That is why I support the bipartisan substitute amendment offered by Representative GEORGE MILLER and Representative SHERWOOD BOEHLERT. This compromise amendment would proactively conserve species using both real science standards and conservation incentives for landowners. This amendment maintains several provisions in the underlying bill, but would, among other things, take a more comprehensive approach to recovery plans and create an advisory board to provide scientific advice to the Interior Department about applying the best science when enforcing endangered species law.

It took decades for many of our Nation's species to reach the point of extinction. It is unrealistic to propose that there will be a quick fix to the recovery of animals and plants facing

decline. For over 30 years, the ESA has been a work in progress. Now is not the time to turn back the clock on wildlife protection.

Environmental preservation is about self-preservation and about the land we are leaving our children. As Members of Congress, as responsible citizens, I urge my colleagues to join me in supporting real reforms to the ESA by supporting the bipartisan substitute amendment and rejecting the underlying bill.

Mr. KIND. Mr. Chairman, the Endangered Species Act remains an enduring testament to the importance the American people place on preserving plant and animal species for future generations. That sentiment was reflected in President Richard Nixon's words during his signing of the Act on December 28, 1973 when he said, "Nothing is more priceless and more worthy of preservation than the rich array of animal life with which our country has been blessed. It is a many-faceted treasure, of value to scholars, scientists, and nature lovers alike, and it forms a vital part of the heritage we all share as Americans."

I am also reminded of the wisdom of my recently passed friend and hero, Senator Gaylord Nelson, who said, "We must recognize that we're all part of a web of life around the world. Anytime you extinguish a species, the consequences are serious." Thankfully today, citizens can see firsthand in every State the progress being made in bringing wildlife back from the brink of extinction.

For example, In Wisconsin, for the first time since its 1991 listing as an endangered species, the winged mapleleaf mussel, a species found only in a small area of the St. Croix River, have been found to be slowly rebuilding their numbers. Another success of the ESA is the Karner blue butterfly. Although 99 percent or more of the Karner blue butterfly's range has been destroyed, Wisconsin helped bring the species back using a conservation plan that takes into account the butterfly's entire life cycle. The State's project, which involves 38 public and private partners, began after the butterfly was listed as endangered in 1992. Lastly, perhaps best known, is that bald eagles are increasing in Wisconsin, where 645 pairs occupied territories in 1997, up from 358 in 1990. In fact, since eagles are relatively numerous in Wisconsin, the State has donated them to other areas from which they have vanished, including to the Nation's Capital—Washington, DC.

I mention these successes because many of the comments made on the floor today cast ESA as an unmitigated failure. I don't believe that is the case at all; and the scientific journal, Ecology Letters, recently published a study of the status of threatened and endangered species that showed more than half on the list for 5 years or more have either stabilized or are improving.

That said, I agree with my friend and colleague, Congressman JOHN DINGELL, author of the original ESA in 1973, that this landmark bill could use an update—that it could be and should be strengthened in ways that cuts bureaucratic red tape, broadens stakeholder participation, and most importantly better facilitates the revival of more threatened and endangered species.

Mr. Chairman, the bipartisan substitute does a substantially better job in these areas. For instance, it is widely agreed the ESA has done a good job in preventing the extinction of many species but it has been less successful in bringing about "the recovery of listed species to levels where protection under the Act is no longer necessary." I believe it is crucial the legislation provides for the development of strong, comprehensive recovery plans within a short period of time after a species is listed as threatened or endangered.

The Boehlert substitute, like the base bill, would repeal the current requirement that the Secretary designate "critical habitat" for endangered fish, wildlife, and plants before formulating a plan for species recovery. But it adds crucial language requiring the Secretary to identify—during a 3-year recovery planning process—lands that are necessary for the conservation of the species—first on public lands and then, if necessary, on private lands.

I also agree that private landowners have been required by ESA to individually shoulder too much of the burden. More than two-thirds of threatened and endangered species reside on private lands where the Endangered Species Act is least effective. It is imperative landowners be regarded as part of the solution and given the tools and incentives necessary to engender their help and support. I believe we should have at least considered expanding the Habitat Conservation Plan Land Acquisition Program in H.R. 3824 which has proven itself effective in reducing conflicts between the conservation of threatened and endangered species and land development and use. That, unfortunately, is not in the base bill.

Instead, H.R. 3824 provides a new, uncapped entitlement program in Section 13 that will only plunge our Nation's finances deeper in the red, and then prohibits common-sense steps that could at least provide some protection to the taxpayer. For example, under H.R. 3824 the government can be forced to pay out repeated claims for different proposals to use the exact same piece of property. These claims don't even need to be backed up by proof of compliance with State or local land use laws. And instead of lessening the number of ESA related lawsuits, even CBO has stated this provision is likely to increase the amount of litigation.

In contrast, the Boehlert substitute would establish a land owner incentive program that would operate much like a Farm Bill conservation program, with 70 percent cost sharing. From EQIP it adds language that would require the Secretary to maximize the conservation benefit for every dollar expended, put Federal money where it will do the most good. A technical assistance program would be established, and the safe harbor regulations would be codified.

Mr. Chairman, I urge my colleagues to support the responsible, bipartisan Boehlert substitute that answers the concerns of landowners, States, and sportsmen, while improving the ability to achieve timely recovery of endangered and threatened fish, wildlife, and plants. Let's mend it in light of past experience and the demands of modern times, but let's do it responsibly—support the substitute.

Mr. BLUMENAUER. Mr. Chairman, I rise in reluctant support of this amendment. I have serious concerns about the changes to the current Endangered Species Act being discussed today, both in the underlying bill and this amendment. I am especially frustrated that both bills repeal the critical habitat provisions of the ESA, which are crucial to the recovery of species. I plan to vote against final passage of any legislation that repeals this important provision.

But I will support the bipartisan substitute amendment by my colleagues Mr. MILLER and Mr. BOEHLERT because it is an honest effort to present an alternative. It does not include the most egregious parts of H.R. 3824 which make a mockery of science and conservation.

The ACTING CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from California (Mr. GEORGE MILLER).

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

RECORDED VOTE

Mr. GEORGE MILLER of California. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 206, noes 216, not voting 11, as follows:

[Roll No. 505]

AYES—206

Abercrombie
Ackerman
Allen
Andrews
Baird
Baldwin
Barrow
Bass
Bean
Becerra
Berkley
Berman
Biggert
Bishop (NY)
Blumenauer
Boehlert
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Carnahan
Carson
Case
Castle
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costello
Crowley
Cummings
Davis (CA)
Davis (IL)
Davis (TN)
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Ehlers
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Ferguson
Filner
Fitzpatrick (PA)
Ford
Frank (MA)
Frelinghuysen
Gerlach
Gilchrest
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Hastings (FL)
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inglis (SC)
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kirk
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Pelosi
Petri
Platts
Pomeroy
Price (NC)
Rahall
Ramstad
Rangel
Reyes
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (VA)
Serrano
Shays
Sherman
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson

Watt
Waxman
Weiner
Weldon (PA)
Wexler
Wolf
Woolsey
Wu
Wynn

NOES—216

Aderholt
Akin
Alexander
Baca
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Beauprez
Berry
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boustany
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carter
Chabot
Chocola
Coble
Cole (OK)
Conaway
Costa
Cramer
Crenshaw
Cubin
Cuellar
Cunningham
Davis (AL)
Davis (KY)
Davis, Jo Ann
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Edwards
Emerson
English (PA)
Everett
Feeney
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Gallegly
Garrett (NJ)
Gibbons
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Issa
Istook
Jenkins
Jindal
Johnson, Sam
Jones (NC)
Keller
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
Melancon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Otter
Oxley
Pearce
Pence
Peterson (MN)
Peterson (PA)
Pickering
Pitts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (WI)
Ryun (KS)
Salazar
Schmidt
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Young (AK)
Young (FL)

NOT VOTING—11

Boswell
Culberson
Davis (FL)
Fattah
Gutierrez
Harman
Hobson
Lee
Paul
Payne
Towns

□ 1653

Ms. GRANGER, Mr. BRADY of Texas, and Mr. ADERHOLT changed their vote from ''aye'' to ''no.''

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

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The Acting CHAIRMAN (Mr. SIMPSON). 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. THORNBERRY) having assumed the chair, Mr. SIMPSON, 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. 3824) to amend and reauthorize the Endangered Species Act of 1973 to provide greater results conserving and recovering listed species, and for other purposes, pursuant to House Resolution 470, he 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 the 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 committee amendment in the nature of a substitute.

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

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

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

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

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

RECORDED VOTE

Mr. POMBO. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, this 15-minute vote on passage of H.R. 3824 will be followed by 5-minute votes on passage of H.J. Res. 68 and suspending the rules and agreeing to H. Con. Res. 178.

The vote was taken by electronic device, and there were—ayes 229, noes 193, not voting 11, as follows:

[Roll No. 506]

AYES—229

Abercrombie
Aderholt
Akin
Alexander
Baca
Bachus
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Beauprez
Berry
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boustany
Boyd
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carter
Chabot
Chocola
Coble
Cole (OK)
Conaway
Costa
Costello
Cramer
Crenshaw
Cubin
Cuellar
Cunningham
Davis (AL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Edwards
Emerson
English (PA)
Everett
Feeney
Flake
Forbes
Ford
Fortenberry
Fossella
Foxx
Franks (AZ)
Gallegly
Garrett (NJ)
Gibbons
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hinojosa
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson, Sam
Jones (NC)
Keller
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kline
Knollenberg
Kolbe
Kuhl (NY)
Latham
Lewis (CA)
Lewis (KY)
Linder
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marshall
Matheson
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
Melancon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Otter
Oxley
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (WI)
Ryun (KS)
Salazar
Schmidt
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Sherwood
Shimkus
Shuster
Simpson
Skelton
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tanner
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Turner
Walden (OR)
Wamp
Weldon (FL)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wynn
Young (AK)
Young (FL)

NOES—193

Ackerman
Allen
Andrews
Baird
Baldwin
Bass
Bean
Becerra
Berkley
Berman
Biggert
Bishop (NY)
Blumenauer
Boehlert
Boucher
Bradley (NH)
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Carnahan
Carson
Case
Castle
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Crowley
Cummings
Davis (CA)
Davis (IL)
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Ehlers
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Ferguson
Filner
Fitzpatrick (PA)
Foley
Frank (MA)
Frelinghuysen
Gerlach
Gilchrest
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Hastings (FL)
Higgins
Hinchey
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kirk
Kucinich
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Leach
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)

Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Moore (KS)
Moore (WI)
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Pelosi
Platts
Price (NC)
Rahall
Ramstad
Rangel
Reichert
Reyes
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (VA)
Serrano
Shaw
Shays
Sherman
Simmons
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tauscher
Thompson (CA)
Tierney
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walsh
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (PA)
Wexler
Wolf
Woolsey
Wu

NOT VOTING—11

Boswell
Culberson
Davis (FL)
Fattah
Gutierrez
Harman
Hobson
Lee
Paul
Payne
Towns

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. THORNBERRY) (during the vote). Members are advised that two minutes remain in this vote.

□ 1712

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. FATTAH. Mr. Speaker, a prior commitment kept me from voting on H.R. 3824, the Threatened and Endangered Species Recovery Act of 2005. If present, I would have voted "yea" for the Democratic amendment offered by MILLER, DINGELL, DICKS, TAUSCHER, BOEHLERT, GILCHREST, and SAXTON. Please let the record reflect that I would voted "nay" on final passage of H.R. 3824.

FURTHER MESSAGE FROM THE SENATE

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

S. 1778. An act to extend medicare cost-sharing for qualifying individuals through September 2006, to extend the Temporary Assistance for Needy Families Program, transitional medical assistance under the Medicaid Program, and related programs through March 31, 2006, and for other purposes.

CONTINUING APPROPRIATIONS FISCAL YEAR 2006

The SPEAKER pro tempore. The pending business is the vote on passage of House Joint Resolution 68 on which the yeas and nays are ordered.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. The question is on the passage of the joint resolution.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 348, nays 65, not voting 20, as follows:

[Roll No. 507]

YEAS—348

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boustany
Boyd
Bradley (NH)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Calvert
Camp
Cannon
Cantor
Capito
Cardin
Cardoza
Carnahan
Carter
Case
Castle
Chabot
Chandler
Chocola
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Cooper
Costa
Cramer
Crenshaw
Cubin
Cuellar
Cunningham
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Drake
Dreier
Duncan
Edwards
Ehlers
Emerson
Engel
Eshoo
Etheridge
Evans
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green, Al
Green, Gene
Gutknecht
Hall
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinojosa
Hoekstra
Holden
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)
Keller
Kelly
Kennedy (MN)
Kilpatrick (MI)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Lantos
Larsen (WA)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
McNulty
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Mollohan
Moore (KS)
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Napolitano
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
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
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Saxton
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
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 (CO)
Upton
Van Hollen
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Watson
Waxman
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (AK)
Young (FL)

NAYS—65

Baldwin
Blumenauer
Boucher
Brady (PA)
Capps
Capuano
Carson
Clay
Conyers
Costello
Crowley
DeFazio
DeGette
DeLauro
Doyle
Emanuel
Farr
Filner
Ford
Frank (MA)
Green (WI)
Grijalva
Hinchey
Holt
Honda
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kind
Kucinich
Langevin
Larson (CT)
Lewis (GA)
Markey
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
Meehan
Miller, George
Moore (WI)
Moran (VA)
Nadler
Neal (MA)
Oberstar
Obey
Olver
Pastor
Ryan (OH)
Ryan (WI)
Sanders
Schakowsky
Scott (VA)
Stark
Tierney
Udall (NM)
Velázquez
Waters
Watt
Weiner
Woolsey
Wu

NOT VOTING—20

Berman
Boswell
Brady (TX)
Buyer
Culberson
Cummings
Davis (FL)
Delahunt
English (PA)
Fattah
Gallegly
Gutierrez
Harman
Hobson
Lee
Miller, Gary
Paul
Payne
Petri
Towns

□ 1720

Mr. LARSON of Connecticut and Mr. CROWLEY changed their vote from "yea" to "nay."

Mr. VISCLOSKY and Ms. JACKSON-LEE of Texas changed their vote from "nay" to "yea."

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

RECOGNIZING THE NEED TO PURSUE RESEARCH INTO CAUSES, TREATMENT AND CURE FOR IDIOPATHIC PULMONARY FIBROSIS

The SPEAKER pro tempore (Mr. THORNBERRY). The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 178, as amended.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. DEAL) that the House suspend the rules and agree to the concurrent resolution,

H. Con. Res. 178, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 401, nays 0, not voting 32, as follows:

[Roll No. 508]

YEAS—401

Abercrombie
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
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
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Cunningham
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutknecht
Hall
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hoekstra
Holden
Holt
Honda
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
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lowey
Lucas
Lungren, Daniel E.
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (MI)
Miller (NC)
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
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
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—32

Ackerman
Berman
Boswell
Cardoza
Culberson
Cummings
Davis (FL)
Delahunt
DeLay
Doolittle
Emerson
Fattah
Gallegly
Gutierrez
Harman
Hobson
Kilpatrick (MI)
Lee
Lofgren, Zoe
Lynch
McNulty
Miller (FL)
Miller, Gary
Miller, George
Paul
Payne
Petri
Ros-Lehtinen
Scott (GA)
Shadegg
Stark
Towns

□ 1730

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. GUTIERREZ. Mr. Speaker, due to a family illness, I was absent from this Chamber today.

I would like the RECORD to show that, had I been present, I would have voted "nay" on rollcall votes Nos. 502 and 506. I would have also voted "yea" on rollcall votes Nos. 503, 505, 507 and 508.

PERSONAL EXPLANATION

Ms. KILPATRICK of Michigan. Mr. Speaker, personal reasons require my absence from legislative business following 5:10 p.m. today, Thursday, September 29, 2005. Had I been present, I would have voted "aye" on H.J. Res. 68, making continuing appropriations for fiscal year 2006 (rollcall No. 507); and "aye" on H. Con. Res. 178, recognizing the need to pursue research into the causes, a treatment, and an eventual cure for idiopathic pulmonary fibrosis, supporting the goals and ideals of National Idiopathic Pulmonary Fibrosis Awareness Week, and for other purposes (rollcall No. 508).

CONFERENCE REPORT ON H.R. 2360, DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2006

Mr. ROGERS of Kentucky submitted the following conference report and statement on the bill (H.R. 2360) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes:

CONFERENCE REPORT (H. REPT. 109–241)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2360) ''making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes'', having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes, namely:

TITLE I—DEPARTMENTAL MANAGEMENT AND OPERATIONS

OFFICE OF THE SECRETARY AND EXECUTIVE MANAGEMENT

For necessary expenses of the Office of the Secretary of Homeland Security, as authorized by section 102 of the Homeland Security Act of 2002 (6 U.S.C. 112), and executive management of the Department of Homeland Security, as authorized by law, $79,409,000: Provided, That not to exceed $40,000 shall be for official reception and representation expenses: Provided further, That, not more than 180 days from the date of the enactment of this Act, the Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives an integrated immigration enforcement strategy to reduce the number of undocumented aliens by ten percent per year based on the most recent United States Census Bureau data.

OFFICE OF SCREENING COORDINATION AND OPERATIONS

For necessary expenses of the Office of Screening Coordination and Operations, $4,000,000.

OFFICE OF THE UNDER SECRETARY FOR MANAGEMENT

For necessary expenses of the Office of the Under Secretary for Management, as authorized by sections 701–705 of the Homeland Security Act of 2002 (6 U.S.C. 341–345), $168,835,000: Provided, That not to exceed $3,000 shall be for official reception and representation expenses: Provided further, That of the total amount provided, $26,070,000 shall remain available until expended solely for the alteration and improvement of facilities, tenant improvements, and relocation costs to consolidate Department headquarters operations.

OFFICE OF THE CHIEF FINANCIAL OFFICER

For necessary expenses of the Office of the Chief Financial Officer, as authorized by section 103 of the Homeland Security Act of 2002 (6 U.S.C. 113), $19,405,000.

OFFICE OF THE CHIEF INFORMATION OFFICER

For necessary expenses of the Office of the Chief Information Officer, as authorized by section 103 of the Homeland Security Act of 2002 (6 U.S.C. 113), and Department-wide technology investments, $297,229,000; of which $75,756,000 shall be available for salaries and expenses; and of which $221,473,000 shall be available for development and acquisition of information technology equipment, software, services, and related activities for the Department of Homeland Security, and for the costs of conversion to narrowband communications, including the cost for operation of the land mobile radio legacy systems, to remain available until expended: Provided, That none of the funds appropriated shall be used to support or supplement the appropriations provided for the United States Visitor and Immigrant Status Indicator Technology project or the Automated Commercial Environment: Provided further, That the Chief Information Officer shall submit to the Committees on Appropriations of the Senate and the House of Representatives, not more than 60 days from the date of enactment of this Act, an expenditure plan for all information technology projects that: (1) are funded by the ''Office of the Chief Information Officer'', or (2) are funded by multiple components of the Department of Homeland Security through reimbursable agreements: Provided further, That such expenditure plan shall include each specific project funded, key milestones, all funding sources for each project, details of annual and lifecycle costs, and projected cost savings or cost avoidance to be achieved by the project: Provided further, That the Chief Information Officer shall submit to the Committees on Appropriations of the Senate and the House of Representatives, not more than 180 days from the date of enactment of this Act, a report that has been approved by the Office of Management and Budget and reviewed by the Government Accountability Office that includes: (1) an enterprise architecture, (2) an Information Technology Human Capital Plan, (3) a capital investment plan for implementing the enterprise architecture, and (4) a description of the information technology capital planning and investment control process.

ANALYSIS AND OPERATIONS

For necessary expenses for information analysis and operations coordination activities, as authorized by title II of the Homeland Security Act of 2002 (6 U.S.C. et seq.), $255,495,000, to remain available until September 30, 2007.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978 (5 U.S.C. App.), $83,017,000, of which not to exceed $100,000 may be used for certain confidential operational expenses, including the payment of informants, to be expended at the direction of the Inspector General.

TITLE II—SECURITY, ENFORCEMENT, AND INVESTIGATIONS

UNITED STATES VISITOR AND IMMIGRANT STATUS INDICATOR TECHNOLOGY

For necessary expenses for the development of the United States Visitor and Immigrant Status Indicator Technology project, as authorized by section 110 of the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (8 U.S.C. 1221 note), $340,000,000, to remain available until expended: Provided, That of the total amount made available under this heading, $159,658,000 may not be obligated for the United States Visitor and Immigrant Status Indicator Technology project until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure prepared by the Secretary of Homeland Security that:

(1) meets the capital planning and investment control review requirements established by the Office of Management and Budget, including Circular A–11, part 7;

(2) complies with the Department of Homeland Security information systems enterprise architecture;

(3) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government;

(4) includes a certification by the Chief Information Officer of the Department of Homeland Security that an independent verification and validation agent is currently under contract for the project;

(5) is reviewed and approved by the Department of Homeland Security Investment Review Board, the Secretary of Homeland Security, and the Office of Management and Budget; and

(6) is reviewed by the Government Accountability Office.

CUSTOMS AND BORDER PROTECTION

SALARIES AND EXPENSES

For necessary expenses for enforcement of laws relating to border security, immigration, customs, and agricultural inspections and regulatory activities related to plant and animal imports; acquisition, lease, maintenance and operation of aircraft; purchase and lease of up to 4,500 (3,935 for replacement only) police-type vehicles; and contracting with individuals for personal services abroad; $4,826,323,000; of which $3,000,000 shall be derived from the Harbor Maintenance Trust Fund for administrative expenses related to the collection of the Harbor Maintenance Fee pursuant to section 9505(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 9505(c)(3)) and notwithstanding section 1511(e)(1) of the Homeland Security Act of 2002 (6 U.S.C. 551(e)(1)); of which not to exceed $45,000 shall be for official reception and representation expenses; of which not less than $163,560,000 shall be for Air and Marine Operations; of which such sums as become available in the Customs User Fee Account, except sums subject to section 13031(f)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(3)), shall be derived from that account; of which not to exceed $150,000 shall be available for payment for rental space in connection with preclearance operations; of which not to exceed $1,000,000 shall be for awards of compensation to informants, to be accounted for solely under the certificate of the Secretary of Homeland Security: Provided, That for fiscal year 2006, the overtime limitation prescribed in section 5(c)(1) of the Act of February 13, 1911 (19 U.S.C. 267(c)(1)) shall be $35,000; and notwithstanding any other provision of law, none of the funds appropriated by this Act may be available to compensate any employee of United States Customs and Border Protection for overtime, from whatever source, in an amount that exceeds such limitation, except in individual cases determined by the Secretary of Homeland Security, or the designee of the Secretary, to be necessary for national security purposes, to prevent excessive costs, or in cases of immigration emergencies: Provided further, That of the total amount provided, $10,000,000 may not be obligated until the Secretary submits to the Committees on Appropriations of the Senate and the House of Representatives all required reports related to air and marine operations: Provided further, That no funds shall be available for the site acquisition, design, or construction of any Border Patrol checkpoint in the Tucson sector: Provided further, That the Border Patrol shall relocate its checkpoints in the Tucson sector at least once every seven days in a manner designed to prevent persons subject to inspection from predicting the location of any such checkpoint.

AUTOMATION MODERNIZATION

For expenses for customs and border protection automated systems, $456,000,000, to remain available until expended, of which not less than $320,000,000 shall be for the development of the Automated Commercial Environment: Provided, That none of the funds made available under this heading may be obligated for the Automated Commercial Environment until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure prepared by the Secretary of Homeland Security that:

(1) meets the capital planning and investment control review requirements established by the Office of Management and Budget, including Circular A–11, part 7;

(2) complies with the Department of Homeland Security information systems enterprise architecture;

(3) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government;

(4) includes a certification by the Chief Information Officer of the Department of Homeland Security that an independent verification and validation agent is currently under contract for the project;

(5) is reviewed and approved by the Department of Homeland Security Investment Review Board, the Secretary of Homeland Security, and the Office of Management and Budget; and

(6) is reviewed by the Government Accountability Office.

AIR AND MARINE INTERDICTION, OPERATIONS, MAINTENANCE, AND PROCUREMENT

For necessary expenses for the operations, maintenance, and procurement of marine vessels, aircraft, unmanned aerial vehicles, and other related equipment of the air and marine program, including operational training and mission-related travel, and rental payments for facilities occupied by the air or marine interdiction and demand reduction programs, the operations of which include the following: the interdiction of narcotics and other goods; the provision of support to Federal, State, and local agencies in the enforcement or administration of laws enforced by the Department of Homeland Security; and at the discretion of the Secretary of Homeland Security, the provision of assistance to Federal, State, and local agencies in other law enforcement and emergency humanitarian efforts, $400,231,000, to remain available until expended: Provided, That no aircraft or other related equipment, with the exception of aircraft that are one of a kind and have been identified as excess to United States Customs and Border Protection requirements and aircraft that have been damaged beyond repair, shall be transferred to any other Federal agency, department, or office outside of the Department of Homeland Security during fiscal year 2006 without the prior approval of the Committees on Appropriations of the Senate and the House of Representatives.

CONSTRUCTION

For necessary expenses to plan, construct, renovate, equip, and maintain buildings and facilities necessary for the administration and enforcement of the laws relating to customs and immigration, $270,000,000, to remain available until expended: Provided, That of the total amount provided under this heading, $35,000,000 shall be available for the San Diego sector fence; $35,000,000 shall be available for Tucson sector tactical infrastructure; and $26,000,000 shall be available for the Advanced Training Center.

IMMIGRATION AND CUSTOMS ENFORCEMENT

SALARIES AND EXPENSES

For necessary expenses for enforcement of immigration and customs laws, detention and removals, and investigations; and purchase and lease of up to 2,740 (2,000 for replacement only) police-type vehicles; $3,108,499,000, of which not

to exceed $7,500,000 shall be available until expended for conducting special operations pursuant to section 3131 of the Customs Enforcement Act of 1986 (19 U.S.C. 2081); of which not to exceed $15,000 shall be for official reception and representation expenses; of which not to exceed $1,000,000 shall be for awards of compensation to informants, to be accounted for solely under the certificate of the Secretary of Homeland Security; of which not less than $102,000 shall be for promotion of public awareness of the child pornography tipline; of which not less than $203,000 shall be for Project Alert; of which not less than $5,000,000 may be used to facilitate agreements consistent with section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g)); and of which not to exceed $11,216,000 shall be available to fund or reimburse other Federal agencies for the costs associated with the care, maintenance, and repatriation of smuggled illegal aliens: Provided, That none of the funds made available under this heading shall be available to compensate any employee for overtime in an annual amount in excess of $35,000, except that the Secretary of Homeland Security, or the designee of the Secretary, may waive that amount as necessary for national security purposes and in cases of immigration emergencies: Provided further, That of the total amount provided, $15,770,000 shall be for activities to enforce laws against forced child labor in fiscal year 2006, of which not to exceed $6,000,000 shall remain available until expended: Provided further, That of the amounts appropriated, $5,000,000 shall not be available for obligation until the Secretary of Homeland Security submits to the Committees on Appropriations of the Senate and the House of Representatives a national detention management plan, including the use of regional detention contracts and alternatives to detention.

FEDERAL PROTECTIVE SERVICE

The revenues and collections of security fees credited to this account, not to exceed $487,000,000, shall be available until expended for necessary expenses related to the protection of federally-owned and leased buildings and for the operations of the Federal Protective Service.

AUTOMATION MODERNIZATION

For expenses of immigration and customs enforcement automated systems, $40,150,000, to remain available until expended: Provided, That none of the funds made available under this heading may be obligated until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure prepared by the Secretary of Homeland Security that:

(1) meets the capital planning and investment control review requirements established by the Office of Management and Budget, including Circular A–11, part 7;

(2) complies with the Department of Homeland Security information systems enterprise architecture;

(3) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government;

(4) includes a certification by the Chief Information Officer of the Department of Homeland Security that an independent verification and validation agent is currently under contract for the project;

(5) is reviewed and approved by the Department of Homeland Security Investment Review Board, the Secretary of Homeland Security, and the Office of Management and Budget; and

(6) is reviewed by the Government Accountability Office.

CONSTRUCTION

For necessary expenses to plan, construct, renovate, equip, and maintain buildings and facilities necessary for the administration and enforcement of the laws relating to customs and immigration, $26,546,000, to remain available until expended.

TRANSPORTATION SECURITY ADMINISTRATION

AVIATION SECURITY

For necessary expenses of the Transportation Security Administration related to providing civil aviation security services pursuant to the Aviation and Transportation Security Act (Public Law 107–71; 115 Stat. 597; 49 U.S.C. 40101 note), $4,607,386,000, to remain available until September 30, 2007, of which not to exceed $3,000 shall be for official reception and representation expenses: Provided, That of the total amount made available under this heading, not to exceed $3,605,438,000 shall be for screening operations, of which $175,000,000 shall be available only for procurement of checked baggage explosive detection systems and $45,000,000 shall be available only for installation of checked baggage explosive detection systems; and not to exceed $1,001,948,000 shall be for aviation security direction and enforcement presence: Provided further, That security service fees authorized under section 44940 of title 49, United States Code, shall be credited to this appropriation as offsetting collections and shall be available only for aviation security: Provided further, That the sum herein appropriated from the General Fund shall be reduced on a dollar-for-dollar basis as such offsetting collections are received during fiscal year 2006, so as to result in a final fiscal year appropriation from the General Fund estimated at not more than $2,617,386,000: Provided further, That any security service fees collected in excess of the amount made available under this heading shall become available during fiscal year 2007: Provided further, That notwithstanding section 44923 of title 49, United States Code, the share of the cost of the Federal Government for a project under any letter of intent shall be 75 percent for any medium or large hub airport and 90 percent for any other airport, and all funding provided by section 44923(h) of title 49 United States Code, or from appropriations authorized under section 44923(i)(1) of title 49 United States Code, may be distributed in any manner deemed necessary to ensure aviation security and to fulfill the Government's planned cost share under existing letters of intent: Provided further, That heads of Federal agencies and commissions shall not be exempt from Federal passenger and baggage screening: Provided further, That reimbursement for security services and related equipment and supplies provided in support of general aviation access to the Ronald Reagan Washington National Airport shall be credited to this appropriation and shall be available until expended solely for these purposes: Provided further, That none of the funds in this Act shall be used to recruit or hire personnel into the Transportation Security Administration which would cause the agency to exceed a staffing level of 45,000 full-time equivalent screeners.

SURFACE TRANSPORTATION SECURITY

For necessary expenses of the Transportation Security Administration related to providing surface transportation security activities, $36,000,000, to remain available until September 30, 2007.

TRANSPORTATION VETTING AND CREDENTIALING

For necessary expenses for the development and implementation of screening programs of the Office of Transportation Vetting and Credentialing, $74,996,000, to remain available until September 30, 2007.

TRANSPORTATION SECURITY SUPPORT

For necessary expenses of the Transportation Security Administration related to providing transportation security support and intelligence pursuant to the Aviation and Transportation Security Act (Public Law 107–71; 115 Stat. 597; 49 U.S.C. 40101 note), $510,483,000, to remain available until September 30, 2007: Provided, That of the funds appropriated under this heading, $5,000,000 may not be obligated until the Secretary submits to the Committees on Appropriations of the Senate and the House of Representatives: (1) a plan for optimally deploying explosive detection equipment, either in-line or to replace explosive trace detection machines, at the Nation's airports on a priority basis to enhance security, reduce Transportation Security Administration staffing requirements, and reduce long-term costs; and (2) a detailed expenditure plan for explosive detection systems procurement and installations on an airport-by-airport basis for fiscal year 2006: Provided further, That these plans shall be submitted no later than 60 days from the date of enactment of this Act.

FEDERAL AIR MARSHALS

For necessary expenses of the Federal Air Marshals, $686,200,000.

UNITED STATES COAST GUARD

OPERATING EXPENSES

(INCLUDING RESCISSION OF FUNDS)

For necessary expenses for the operation and maintenance of the United States Coast Guard not otherwise provided for; purchase or lease of not to exceed 25 passenger motor vehicles, which shall be for replacement only; payments pursuant to section 156 of Public Law 97–377 (42 U.S.C. 402 note); and recreation and welfare; $5,492,331,000, of which $1,200,000,000 shall be for defense-related activities; of which $24,500,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)); and of which not to exceed $3,000 shall be for official reception and representation expenses: Provided, That none of the funds made available by this or any other Act shall be available for administrative expenses in connection with shipping commissioners in the United States: Provided further, That none of the funds made available by this Act shall be for expenses incurred for yacht documentation under section 12109 of title 46, United States Code, except to the extent fees are collected from yacht owners and credited to this appropriation.

In addition, of the funds appropriated under this heading in Public Law 108–11 (117 Stat. 583), $15,103,569 are rescinded.

ENVIRONMENTAL COMPLIANCE AND RESTORATION

For necessary expenses to carry out the environmental compliance and restoration functions of the United States Coast Guard under chapter 19 of title 14, United States Code, $12,000,000, to remain available until expended.

RESERVE TRAINING

For necessary expenses of the Coast Guard Reserve, as authorized by law; operations and maintenance of the reserve program; personnel and training costs; and equipment and services; $119,000,000.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For necessary expenses of acquisition, construction, renovation, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto; and maintenance, rehabilitation, lease and operation of facilities and equipment, as authorized by law; $1,141,800,000, of which $20,000,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)); of which $18,500,000 shall be available until September 30, 2010, to acquire, repair, renovate, or improve vessels, small boats, and related equipment; of which $20,000,000 shall be available until September 30, 2010, to increase aviation capability; of which $65,000,000 shall be available until September 30, 2008, for other equipment; of which $31,700,000 shall be available until September 30, 2008, for shore facilities and aids to navigation facilities; of which $73,500,000 shall be available for personnel compensation and benefits and related costs; and of which $933,100,000 shall be available until September 30, 2010, for the Integrated Deepwater Systems program: Provided, That the Commandant of the Coast Guard is authorized to dispose of surplus real property, by sale or

lease, and the proceeds shall be credited to this appropriation as offsetting collections and shall be available until September 30, 2008: Provided further, That the Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives, in conjunction with the President's fiscal year 2007 budget, a review of the Revised Deepwater Implementation Plan that identifies any changes to the plan for the fiscal year; an annual performance comparison of Deepwater assets to pre-Deepwater legacy assets; a status report of legacy assets; a detailed explanation of how the costs of legacy assets are being accounted for within the Deepwater program; an explanation of why many assets that are elements of the Integrated Deepwater System are not accounted for within the Deepwater appropriation under this heading; a description of the competitive process conducted in all contracts and subcontracts exceeding $5,000,000 within the Deepwater program; a description of how the Coast Guard is planning for the human resource needs of Deepwater assets; and the earned value management system gold card data for each Deepwater asset: Provided further, That the Secretary shall submit to the Committees on Appropriations of the Senate and the House of Representatives a comprehensive review of the Revised Deepwater Implementation Plan every five years, beginning in fiscal year 2011, that includes a complete projection of the acquisition costs and schedule for the duration of the plan through fiscal year 2027: Provided further, That the Secretary shall annually submit to the Committees on Appropriations of the Senate and the House of Representatives, at the time that the President's budget is submitted under section 1105(a) of title 31, a future-years capital investment plan for the Coast Guard that identifies for each capital budget line item—

(1) the proposed appropriation included in that budget;

(2) the total estimated cost of completion;

(3) projected funding levels for each fiscal year for the next five fiscal years or until project completion, whichever is earlier;

(4) an estimated completion date at the projected funding levels; and

(5) changes, if any, in the total estimated cost of completion or estimated completion date from previous future-years capital investment plans submitted to the Committees on Appropriations of the Senate and the House of Representatives: Provided further, That the Secretary shall ensure that amounts specified in the future-years capital investment plan are consistent to the maximum extent practicable with proposed appropriations necessary to support the programs, projects, and activities of the Coast Guard in the President's budget as submitted under section 1105(a) of title 31 for that fiscal year: Provided further, That any inconsistencies between the capital investment plan and proposed appropriations shall be identified and justified.

ALTERATION OF BRIDGES

For necessary expenses for alteration or removal of obstructive bridges, as authorized by section 6 of the Truman-Hobbs Act (33 U.S.C. 516), $15,000,000, to remain available until expended.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

For necessary expenses for applied scientific research, development, test, and evaluation; and for maintenance, rehabilitation, lease, and operation of facilities and equipment; as authorized by law; $17,750,000, to remain available until expended, of which $2,000,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)): Provided, That there may be credited to and used for the purposes of this appropriation funds received from State and local governments, other public authorities, private sources, and foreign countries for expenses incurred for research, development, testing, and evaluation.

RETIRED PAY

For retired pay, including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose, payments under the Retired Serviceman's Family Protection and Survivor Benefits Plans, payment for career status bonuses, concurrent receipts and combat-related special compensation under the National Defense Authorization Act, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $1,014,080,000.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Secret Service, including purchase of not to exceed 614 vehicles for police-type use, which shall be for replacement only, and hire of passenger motor vehicles; purchase of American-made motorcycles; hire of aircraft; services of expert witnesses at such rates as may be determined by the Director of the Secret Service; rental of buildings in the District of Columbia, and fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control, as may be necessary to perform protective functions; payment of per diem or subsistence allowances to employees where a protective assignment during the actual day or days of the visit of a protectee requires an employee to work 16 hours per day or to remain overnight at a post of duty; conduct of and participation in firearms matches; presentation of awards; travel of Secret Service employees on protective missions without regard to the limitations on such expenditures in this or any other Act if approval is obtained in advance from the Committees on Appropriations of the Senate and the House of Representatives; research and development; grants to conduct behavioral research in support of protective research and operations; and payment in advance for commercial accommodations as may be necessary to perform protective functions; $1,208,310,000, of which not to exceed $25,000 shall be for official reception and representation expenses; of which not to exceed $100,000 shall be to provide technical assistance and equipment to foreign law enforcement organizations in counterfeit investigations; of which $2,389,000 shall be for forensic and related support of investigations of missing and exploited children; and of which $5,500,000 shall be a grant for activities related to the investigations of missing and exploited children and shall remain available until expended: Provided, That up to $18,000,000 provided for protective travel shall remain available until September 30, 2007: Provided further, That of the total amount appropriated, not less than $2,500,000 shall be available solely for the unanticipated costs related to security operations for National Special Security Events, to remain available until September 30, 2007: Provided further, That the United States Secret Service is authorized to obligate funds in anticipation of reimbursements from Federal agencies and entities, as defined in section 105 of title 5, United States Code, receiving training sponsored by the James J. Rowley Training Center, except that total obligations at the end of the fiscal year shall not exceed total budgetary resources available under this heading at the end of the fiscal year.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For necessary expenses for acquisition, construction, repair, alteration, and improvement of facilities, $3,699,000, to remain available until expended.

TITLE III—PREPAREDNESS AND RECOVERY

PREPAREDNESS

MANAGEMENT AND ADMINISTRATION

For salaries and expenses of the Office of the Under Secretary for Preparedness, the Office of the Chief Medical Officer, and the Office of National Capital Region Coordination, $16,079,000: Provided, That not to exceed $7,000 shall be for official reception and representation expenses.

OFFICE FOR DOMESTIC PREPAREDNESS

SALARIES AND EXPENSES

For necessary expenses for the Office for Domestic Preparedness, $5,000,000.

STATE AND LOCAL PROGRAMS

For grants, contracts, cooperative agreements, and other activities, including grants to State and local governments for terrorism prevention activities, notwithstanding any other provision of law, $2,501,300,000, which shall be allocated as follows:

(1) $550,000,000 for formula-based grants and $400,000,000 for law enforcement terrorism prevention grants pursuant to section 1014 of the USA PATRIOT ACT (42 U.S.C. 3714): Provided, That the application for grants shall be made available to States within 45 days from the date of enactment of this Act; that States shall submit applications within 90 days after the grant announcement; and that the Office for Domestic Preparedness shall act within 90 days after receipt of an application: Provided further, That no less than 80 percent of any grant under this paragraph to a State shall be made available by the State to local governments within 60 days after the receipt of the funds.

(2) $1,155,000,000 for discretionary grants, as determined by the Secretary of Homeland Security, of which—

(A) $765,000,000 shall be for use in high-threat, high-density urban areas: Provided, That $25,000,000 shall be available until expended for assistance to organizations (as described under section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax section 501(a) of such Code) determined by the Secretary to be at high-risk of international terrorist attack, and that these determinations shall not be delegated to any Federal, State, or local government official: Provided further, That the Secretary shall certify to the Committees on Appropriations of the Senate and the House of Representatives the threat to each designated tax exempt grantee at least 3 full business days in advance of the announcement of any grant award;

(B) $175,000,000 shall be for port security grants pursuant to the purposes of 46 United States Code 70107(a) through (h), which shall be awarded based on risk and threat notwithstanding subsection (a), for eligible costs as defined in subsections (b)(2)–(4);

(C) $5,000,000 shall be for trucking industry security grants;

(D) $10,000,000 shall be for intercity bus security grants;

(E) $150,000,000 shall be for intercity passenger rail transportation (as defined in section 24102 of title 49, United States Code), freight rail, and transit security grants; and

(F) $50,000,000 shall be for buffer zone protection grants:

Provided, That for grants under subparagraph (A), the application for grants shall be made available to States within 45 days from the date of enactment of this Act; that States shall submit applications within 90 days after the grant announcement; and that the Office for Domestic Preparedness shall act within 90 days after receipt of an application: Provided further, That no less than 80 percent of any grant under this paragraph to a State shall be made available by the State to local governments within 60 days after the receipt of the funds.

(3) $50,000,000 shall be available for the Commercial Equipment Direct Assistance Program.

(4) $346,300,000 for training, exercises, technical assistance, and other programs:

Provided, That none of the grants provided under this heading shall be used for the construction or renovation of facilities, except for a minor perimeter security project, not to exceed $1,000,000, as determined necessary by the Secretary of Homeland Security: Provided further, That the proceeding proviso shall not apply to

grants under subparagraphs (B), (E), and (F) of paragraph (2) of this heading: Provided further, That grantees shall provide additional reports on their use of funds, as determined necessary by the Secretary of Homeland Security: Provided further, That funds appropriated for law enforcement terrorism prevention grants under paragraph (1) and discretionary grants under paragraph (2)(A) of this heading shall be available for operational costs, to include personnel overtime and overtime associated with Office for Domestic Preparedness certified training, as needed: Provided further, That in accordance with the Department's implementation plan for Homeland Security Presidential Directive 8, the Office for Domestic Preparedness shall issue the final National Preparedness Goal no later than December 31, 2005; and no funds provided under paragraphs (1) and (2)(A) shall be awarded to States that have not submitted to the Office for Domestic Preparedness an updated State homeland strategy based on the interim National Preparedness Goal, dated March 31, 2005: Provided further, That the Government Accountability Office shall review the validity of the threat and risk factors used by the Secretary for the purposes of allocating discretionary grants funded under this heading, and the application of those factors in the allocation of funds, and report to the Committees on Appropriations of the Senate and the House of Representatives on the findings of its review by November 17, 2005: Provided further, That within seven days from the date of enactment of this Act, the Secretary shall provide the Government Accountability Office with the threat and risk methodology and factors that will be used to allocate discretionary grants funded under this heading.

FIREFIGHTER ASSISTANCE GRANTS

For necessary expenses for programs authorized by the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.), $655,000,000, of which $545,000,000 shall be available to carry out section 33 (15 U.S.C. 2229) and $110,000,000 shall be available to carry out section 34 (15 U.S.C. 2229a) of such Act, to remain available until September 30, 2007: Provided, That not to exceed 5 percent of this amount shall be available for program administration.

EMERGENCY MANAGEMENT PERFORMANCE GRANTS

For necessary expenses for emergency management performance grants, as authorized by the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), and Reorganization Plan No. 3 of 1978 (5 U.S.C. App.), $185,000,000: Provided, That total administrative costs shall not exceed 3 percent of the total appropriation.

RADIOLOGICAL EMERGENCY PREPAREDNESS PROGRAM

The aggregate charges assessed during fiscal year 2006, as authorized in title III of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (42 U.S.C. 5196e), shall not be less than 100 percent of the amounts anticipated by the Department of Homeland Security necessary for its radiological emergency preparedness program for the next fiscal year: Provided, That the methodology for assessment and collection of fees shall be fair and equitable and shall reflect costs of providing such services, including administrative costs of collecting such fees: Provided further, That fees received under this heading shall be deposited in this account as offsetting collections and will become available for authorized purposes on October 1, 2006, and remain available until expended.

UNITED STATES FIRE ADMINISTRATION AND TRAINING

For necessary expenses of the United States Fire Administration and for other purposes, as authorized by 15 U.S.C. 2201 et seq. and 6 U.S.C. 101 et seq., $44,948,000.

INFRASTRUCTURE PROTECTION AND INFORMATION SECURITY

For necessary expenses for infrastructure protection and information security programs and activities, as authorized by title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.), $625,499,000, of which $542,157,000 shall remain available until September 30, 2007.

COUNTERTERRORISM FUND

For necessary expenses, as determined by the Secretary of Homeland Security, to reimburse any Federal agency for the costs of providing support to counter, investigate, or respond to unexpected threats or acts of terrorism, including payment of rewards in connection with these activities, $2,000,000, to remain available until expended: Provided, That the Secretary shall notify the Committees on Appropriations of the Senate and the House of Representatives 15 days prior to the obligation of any amount of these funds in accordance with section 503 of this Act.

FEDERAL EMERGENCY MANAGEMENT AGENCY

ADMINISTRATIVE AND REGIONAL OPERATIONS

For necessary expenses for administrative and regional operations, $221,240,000, including activities authorized by the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.), the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.), sections 107 and 303 of the National Security Act of 1947 (50 U.S.C. 404, 405), Reorganization Plan No. 3 of 1978 (5 U.S.C. App.), and the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.): Provided, That not to exceed $3,000 shall be for official reception and representation expenses.

PREPAREDNESS, MITIGATION, RESPONSE, AND RECOVERY

For necessary expenses for preparedness, mitigation, response, and recovery activities, $204,058,000, including activities authorized by the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.), the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.), sections 107 and 303 of the National Security Act of 1947 (50 U.S.C. 404, 405), Reorganization Plan No. 3 of 1978 (5 U.S.C. App.), and the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.): Provided, That of the total amount made available under this heading, $20,000,000 shall be for Urban Search and Rescue Teams, of which not to exceed $1,600,000 may be made available for administrative costs.

PUBLIC HEALTH PROGRAMS

For necessary expenses for countering potential biological, disease, and chemical threats to civilian populations, $34,000,000.

DISASTER RELIEF

For necessary expenses in carrying out the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $1,770,000,000, to remain available until expended.

DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

For administrative expenses to carry out the direct loan program, as authorized by section 319 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5162), $567,000: Provided, That gross obligations for the principal amount of direct loans shall not exceed $25,000,000: Provided further, That the cost of modifying such loans shall be as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a).

FLOOD MAP MODERNIZATION FUND

For necessary expenses pursuant to section 1360 of the National Flood Insurance Act of 1968 (42 U.S.C. 4101), $200,000,000, and such additional sums as may be provided by State and local governments or other political subdivisions for cost-shared mapping activities under section 1360(f)(2) of such Act, to remain available until expended: Provided, That total administrative costs shall not exceed 3 percent of the total appropriation.

NATIONAL FLOOD INSURANCE FUND

(INCLUDING TRANSFER OF FUNDS)

For activities under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), not to exceed $36,496,000 for salaries and expenses associated with flood mitigation and flood insurance operations; not to exceed $40,000,000 for financial assistance under section 1361A of such Act to States and communities for taking actions under such section with respect to severe repetitive loss properties, to remain available until expended; not to exceed $10,000,000 for mitigation actions under section 1323 of such Act; and not to exceed $99,358,000 for flood hazard mitigation, to remain available until September 30, 2007, including up to $40,000,000 for expenses under section 1366 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c), which amount shall be available for transfer to the National Flood Mitigation Fund until September 30, 2007, and which amount shall be derived from offsetting collections assessed and collected pursuant to section 1307 of that Act (42 U.S.C. 4014), and shall be retained and used for necessary expenses under this heading: Provided, That in fiscal year 2006, no funds in excess of: (1) $55,000,000 for operating expenses; (2) $660,148,000 for commissions and taxes of agents; and (3) $30,000,000 for interest on Treasury borrowings shall be available from the National Flood Insurance Fund.

NATIONAL FLOOD MITIGATION FUND

Notwithstanding subparagraphs (B) and (C) of subsection (b)(3), and subsection (f), of section 1366 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c), $40,000,000, to remain available until September 30, 2007, for activities designed to reduce the risk of flood damage to structures pursuant to such Act, of which $40,000,000 shall be derived from the National Flood Insurance Fund.

NATIONAL PREDISASTER MITIGATION FUND

For a predisaster mitigation grant program under title II of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5131 et seq.), $50,000,000, to remain available until expended: Provided, That grants made for predisaster mitigation shall be awarded on a competitive basis subject to the criteria in section 203(g) of such Act (42 U.S.C. 5133(g)), and notwithstanding section 203(f) of such Act, shall be made without reference to State allocations, quotas, or other formula-based allocation of funds: Provided further, That total administrative costs shall not exceed 3 percent of the total appropriation.

EMERGENCY FOOD AND SHELTER

To carry out an emergency food and shelter program pursuant to title III of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11331 et seq.), $153,000,000, to remain available until expended: Provided, That total administrative costs shall not exceed 3.5 percent of the total appropriation.

TITLE IV—RESEARCH AND DEVELOPMENT, TRAINING, AND SERVICES

UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES

For necessary expenses for citizenship and immigration services, $115,000,000: Provided, That the Director of United States Citizenship and

Immigration Services shall submit to the Committees on Appropriations of the Senate and the House of Representatives a report on its information technology transformation efforts and how these efforts align with the enterprise architecture standards of the Department of Homeland Security within 90 days from the date of enactment of this Act.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Law Enforcement Training Center, including materials and support costs of Federal law enforcement basic training; purchase of not to exceed 117 vehicles for police-type use and hire of passenger motor vehicles; expenses for student athletic and related activities; the conduct of and participation in firearms matches and presentation of awards; public awareness and enhancement of community support of law enforcement training; room and board for student interns; a flat monthly reimbursement to employees authorized to use personal mobile phones for official duties; and services as authorized by section 3109 of title 5, United States Code; $194,000,000, of which up to $42,119,000 for materials and support costs of Federal law enforcement basic training shall remain available until September 30, 2007; and of which not to exceed $12,000 shall be for official reception and representation expenses: Provided, That the Center is authorized to obligate funds in anticipation of reimbursements from agencies receiving training sponsored by the Center, except that total obligations at the end of the fiscal year shall not exceed total budgetary resources available at the end of the fiscal year.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For acquisition of necessary additional real property and facilities, construction, and ongoing maintenance, facility improvements, and related expenses of the Federal Law Enforcement Training Center, $88,358,000, to remain available until expended: Provided, That the Center is authorized to accept reimbursement to this appropriation from government agencies requesting the construction of special use facilities.

SCIENCE AND TECHNOLOGY

MANAGEMENT AND ADMINISTRATION

For salaries and expenses of the Office of the Under Secretary for Science and Technology and for management and administration of programs and activities, as authorized by title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.), $81,099,000: Provided, That not to exceed $3,000 shall be for official reception and representation expenses.

RESEARCH, DEVELOPMENT, ACQUISITION, AND OPERATIONS

For necessary expenses for science and technology research, including advanced research projects; development; test and evaluation; acquisition; and operations; as authorized by title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.); $1,420,997,000, to remain available until expended: Provided, That of the total amount provided under this heading, $23,000,000 is available to select a site for the National Bio and Agrodefense Facility and perform other pre-construction activities to establish research capabilities to protect animal and public health from high consequence animal and zoonotic diseases in support of Homeland Security Presidential Directives 9 and 10: Provided further, That of the amount provided under this heading, $318,014,000 shall be for activities of the Domestic Nuclear Detection Office, of which $125,000,000 shall be for the purchase and deployment of radiation portal monitors for United States ports of entry and of which no less than $81,000,000 shall be for radiological and nuclear research and development activities: Provided further, That excluding the funds made available under the preceding proviso for radiation portal monitors, $144,760,500 of the total amount made available under this heading for the Domestic Nuclear Detection Office shall not be obligated until the Committees on Appropriations of the Senate and the House of Representatives receive and approve an expenditure plan for the Domestic Nuclear Detection Office: Provided further, That the expenditure plan shall include funding by program, project, and activity for each of fiscal years 2006 through 2010 prepared by the Secretary of Homeland Security that has been reviewed by the Government Accountability Office.

TITLE V—GENERAL PROVISIONS

SEC. 501. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 502. Subject to the requirements of section 503 of this Act, the unexpended balances of prior appropriations provided for activities in this Act may be transferred to appropriation accounts for such activities established pursuant to this Act: Provided, That balances so transferred may be merged with funds in the applicable established accounts and thereafter may be accounted for as one fund for the same time period as originally enacted.

SEC. 503. (a) None of the funds provided by this Act, provided by previous appropriations Acts to the agencies in or transferred to the Department of Homeland Security that remain available for obligation or expenditure in fiscal year 2006, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds that: (1) creates a new program; (2) eliminates a program, project, or activity; (3) increases funds for any program, project, or activity for which funds have been denied or restricted by the Congress; (4) proposes to use funds directed for a specific activity by either of the Committees on Appropriations of the Senate or House of Representatives for a different purpose; or (5) contracts out any functions or activities for which funds have been appropriated for Federal full-time equivalent positions; unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such reprogramming of funds.

(b) None of the funds provided by this Act, provided by previous appropriations Acts to the agencies in or transferred to the Department of Homeland Security that remain available for obligation or expenditure in fiscal year 2006, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure for programs, projects, or activities through a reprogramming of funds in excess of $5,000,000 or 10 percent, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 percent funding for any existing program, project, or activity, or numbers of personnel by 10 percent as approved by the Congress; or (3) results from any general savings from a reduction in personnel that would result in a change in existing programs, projects, or activities as approved by the Congress; unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such reprogramming of funds.

(c) Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Homeland Security by this Act or provided by previous appropriations Acts may be transferred between such appropriations, but no such appropriations, except as otherwise specifically provided, shall be increased by more than 10 percent by such transfers: Provided, That any transfer under this section shall be treated as a reprogramming of funds under subsection (b) of this section and shall not be available for obligation unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such transfer.

(d) Notwithstanding subsections (a), (b), and (c) of this section, no funds shall be reprogrammed within or transferred between appropriations after June 30, except in extraordinary circumstances which imminently threaten the safety of human life or the protection of property.

(e) Hereafter, notwithstanding any other provision of law, notifications pursuant to this section or any other authority for reprogramming or transfer of funds shall be made solely to the Committees on Appropriations of the Senate and the House of Representatives.

SEC. 504. None of the funds appropriated or otherwise made available to the Department of Homeland Security may be used to make payments to the ''Department of Homeland Security Working Capital Fund'', except for the activities and amounts allowed in section 6024 of Public Law 109–13, excluding the Homeland Secure Data Network: Provided, That any additional activities and amounts must be approved by the Committees on Appropriations of the Senate and the House of Representatives 30 days in advance of obligation.

SEC. 505. Except as otherwise specifically provided by law, not to exceed 50 percent of unobligated balances remaining available at the end of fiscal year 2006 from appropriations for salaries and expenses for fiscal year 2006 in this Act shall remain available through September 30, 2007, in the account and for the purposes for which the appropriations were provided: Provided, That prior to the obligation of such funds, a request shall be submitted to the Committees on Appropriations of the Senate and the House of Representatives for approval in accordance with section 503 of this Act.

SEC. 506. Funds made available by this Act for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2006 until the enactment of an Act authorizing intelligence activities for fiscal year 2006.

SEC. 507. The Federal Law Enforcement Training Center shall lead the Federal law enforcement training accreditation process, to include representatives from the Federal law enforcement community and non-Federal accreditation experts involved in law enforcement training, to continue the implementation of measuring and assessing the quality and effectiveness of Federal law enforcement training programs, facilities, and instructors.

SEC. 508. None of the funds in this Act may be used to make a grant allocation, discretionary grant award, discretionary contract award, or to issue a letter of intent totaling in excess of $1,000,000, or to announce publicly the intention to make such an award, unless the Secretary of Homeland Security notifies the Committees on Appropriations of the Senate and the House of Representatives at least 3 full business days in advance: Provided, That no notification shall involve funds that are not available for obligation.

SEC. 509. Notwithstanding any other provision of law, no agency shall purchase, construct, or lease any additional facilities, except within or contiguous to existing locations, to be used for the purpose of conducting Federal law enforcement training without the advance approval of the Committees on Appropriations of the Senate and the House of Representatives, except that the Federal Law Enforcement Training Center is authorized to obtain the temporary use of additional facilities by lease, contract, or other agreement for training which cannot be accommodated in existing Center facilities.

SEC. 510. The Director of the Federal Law Enforcement Training Center shall schedule basic and/or advanced law enforcement training at all four training facilities under the control of the

Federal Law Enforcement Training Center to ensure that these training centers are operated at the highest capacity throughout the fiscal year.

SEC. 511. None of the funds appropriated or otherwise made available by this Act may be used for expenses of any construction, repair, alteration, or acquisition project for which a prospectus, if required by the Public Buildings Act of 1959 (40 U.S.C. 3301), has not been approved, except that necessary funds may be expended for each project for required expenses for the development of a proposed prospectus.

SEC. 512. None of the funds in this Act may be used in contravention of the applicable provisions of the Buy American Act (41 U.S.C. 10a et seq.).

SEC. 513. The Secretary of Homeland Security shall take all actions necessary to ensure that the Department of Homeland Security is in compliance with the second proviso of section 513 of Public Law 108–334 and shall report to the Committees on Appropriations of the Senate and House of Representatives biweekly beginning on October 1, 2005, on any reasons for non-compliance: Provided, That, furthermore, the Secretary shall take all possible actions, including the procurement of certified systems to inspect and screen air cargo on passenger aircraft, to increase the level of air cargo inspected beyond that mandated in section 513 of Public Law 108–334 and shall report to the Committees on Appropriations of the Senate and the House of Representatives every six months on the actions taken and the percentage of air cargo inspected at each airport.

SEC. 514. Notwithstanding section 3302 of title 31, United States Code, for fiscal year 2006 and thereafter, the Administrator of the Transportation Security Administration may impose a reasonable charge for the lease of real and personal property to Transportation Security Administration employees and for use by Transportation Security Administration employees and may credit amounts received to the appropriation or fund initially charged for operating and maintaining the property, which amounts shall be available, without fiscal year limitation, for expenditure for property management, operation, protection, construction, repair, alteration, and related activities.

SEC. 515. For fiscal year 2006 and thereafter, the acquisition management system of the Transportation Security Administration shall apply to the acquisition of services, as well as equipment, supplies, and materials.

SEC. 516. Notwithstanding any other provision of law, the authority of the Office of Personnel Management to conduct personnel security and suitability background investigations, update investigations, and periodic reinvestigations of applicants for, or appointees in, positions in the Office of the Secretary and Executive Management, the Office of the Under Secretary for Management, Analysis and Operations, Immigration and Customs Enforcement, Directorate for Preparedness, and the Directorate of Science and Technology of the Department of Homeland Security is transferred to the Department of Homeland Security: Provided, That on request of the Department of Homeland Security, the Office of Personnel Management shall cooperate with and assist the Department in any investigation or reinvestigation under this section: Provided further, That this section shall cease to be effective at such time as the President has selected a single agency to conduct security clearance investigations pursuant to section 3001(c) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 50 U.S.C. 435b) and the entity selected under section 3001(b) of such Act has reported to Congress that the agency selected pursuant to such section 3001(c) is capable of conducting all necessary investigations in a timely manner or has authorized the entities within the Department of Homeland Security covered by this section to conduct their own investigations pursuant to section 3001 of such Act.

SEC. 517. Hereafter, notwithstanding any other provision of law, funds appropriated under paragraphs (1) and (2) of the State and Local Programs heading under title III of this Act are exempt from section 6503(a) of title 31, United States Code.

SEC. 518. (a) None of the funds provided by this or previous appropriations Acts may be obligated for deployment or implementation, on other than a test basis, of the Secure Flight program or any other follow on or successor passenger prescreening programs, until the Secretary of Homeland Security certifies, and the Government Accountability Office reports, to the Committees on Appropriations of the Senate and the House of Representatives, that all ten of the elements contained in paragraphs (1) through (10) of section 522(a) of Public Law 108–334 (118 Stat. 1319) have been successfully met.

(b) The report required by subsection (a) shall be submitted within 90 days after the certification required by such subsection is provided, and periodically thereafter, if necessary, until the Government Accountability Office confirms that all ten elements have been successfully met.

(c) During the testing phase permitted by subsection (a), no information gathered from passengers, foreign or domestic air carriers, or reservation systems may be used to screen aviation passengers, or delay or deny boarding to such passengers, except in instances where passenger names are matched to a Government watch list.

(d) None of the funds provided in this or previous appropriations Acts may be utilized to develop or test algorithms assigning risk to passengers whose names are not on Government watch lists.

(e) None of the funds provided in this or previous appropriations Acts may be utilized for data or a database that is obtained from or remains under the control of a non-Federal entity: Provided, That this restriction shall not apply to Passenger Name Record data obtained from air carriers.

SEC. 519. None of the funds made available in this Act may be used to amend the oath of allegiance required by section 337 of the Immigration and Nationality Act (8 U.S.C. 1448).

SEC. 520. None of the funds appropriated by this Act may be used to process or approve a competition under Office of Management and Budget Circular A–76 for services provided as of June 1, 2004, by employees (including employees serving on a temporary or term basis) of United States Citizenship and Immigration Services of the Department of Homeland Security who are known as of that date as Immigration Information Officers, Contact Representatives, or Investigative Assistants.

SEC. 521. None of the funds appropriated by this Act shall be available to maintain the United States Secret Service as anything but a distinct entity within the Department of Homeland Security and shall not be used to merge the United States Secret Service with any other department function, cause any personnel and operational elements of the United States Secret Service to report to an individual other than the Director of the United States Secret Service, or cause the Director to report directly to any individual other than the Secretary of Homeland Security.

SEC. 522. None of the funds appropriated to the United States Secret Service by this Act or by previous appropriations Acts may be made available for the protection of the head of a Federal agency other than the Secretary of Homeland Security: Provided, That the Director of the United States Secret Service may enter into an agreement to perform such service on a fully reimbursable basis.

SEC. 523. The Department of Homeland Security processing and data storage facilities at the John C. Stennis Space Center shall hereafter be known as the ''National Center for Critical Information Processing and Storage''.

SEC. 524. The Secretary, in consultation with industry stakeholders, shall develop standards and protocols for increasing the use of explosive detection equipment to screen air cargo when appropriate.

SEC. 525. The Transportation Security Administration (TSA) shall utilize existing checked baggage explosive detection equipment and screeners to screen cargo carried on passenger aircraft to the greatest extent practicable at each airport: Provided, That beginning with November 2005, TSA shall provide a monthly report to the Committees on Appropriations of the Senate and the House of Representatives detailing, by airport, the amount of cargo carried on passenger aircraft that was screened by TSA in August 2005 and each month thereafter.

SEC. 526. None of the funds available for obligation for the transportation worker identification credential program shall be used to develop a personalization system that is decentralized or a card production capability that does not utilize an existing government card production facility: Provided, That no funding can be obligated for the next phase of production until the Committees on Appropriations of the Senate and the House of Representatives have been fully briefed on the results of the prototype phase and agree that the program should move forward.

SEC. 527. (a) From the unexpended balances of the United States Coast Guard ''Acquisition, Construction, and Improvements'' account specifically identified in the Joint Explanatory Statement (House Report 108–10) accompanying Public Law 108–7 for the 110–123 foot patrol boat upgrade, the Joint Explanatory Statement (House Report 108–280) accompanying Public Law 108–90 for the Fast Response Cutter/110–123 foot patrol boat conversion, and in the Joint Explanatory Statement (House Report 108–774) accompanying Public Law 108–334 for the Integrated Deepwater System patrol boats 110–123 foot conversion, $78,630,689 are rescinded.

(b) For necessary expenses of the United States Coast Guard for ''Acquisition, Construction, and Improvements'', an additional $78,630,689, to remain available until September 30, 2009, for the service life extension program of the current 110-foot Island Class patrol boat fleet and accelerated design and production of the Fast Response Cutter.

SEC. 528. The Secretary of Homeland Security shall utilize the Transportation Security Clearinghouse as the central identity management system for the deployment and operation of the registered traveler program and the transportation worker identification credential program for the purposes of collecting and aggregating biometric data necessary for background vetting; providing all associated record-keeping, customer service, and related functions; ensuring interoperability between different airports and vendors; and acting as a central activation, revocation, and transaction hub for participating airports, ports, and other points of presence.

SEC. 529. None of the funds made available in this Act may be used by any person other than the privacy officer appointed pursuant to section 222 of the Homeland Security Act of 2002 (6 U.S.C. 142) to alter, direct that changes be made to, delay, or prohibit the transmission to Congress of any report prepared pursuant to paragraph (5) of such section.

SEC. 530. No funding provided by this or previous appropriation Acts shall be available to pay the salary of any employee serving as a contracting officer's technical representative (COTR) or anyone acting in a similar or like capacity who has not received COTR training.

SEC. 531. Except as provided in section 44945 of title 49, United States Code, funds appropriated or transferred to Transportation Security Administration ''Aviation Security'' and ''Administration'' in fiscal years 2004 and 2005 that are recovered or deobligated shall be available only for procurement and installation of

explosive detection systems for air cargo, baggage, and checkpoint screening systems: Provided, That these funds shall be subject to section 503 of this Act.

SEC. 532. Not later than 60 days from the date of the enactment of this Act, the Secretary of Homeland Security shall conduct a survey of all ports of entry in the United States and designate an airport as a port of entry in each State that does not have a port of entry.

SEC. 533. Notwithstanding any other provision of law, the Secretary of Homeland Security shall consider eligible under the Federal Emergency Management Agency Public Assistance Program the costs sufficient to enable the city to repair and upgrade all damaged and undamaged elements of the Carnegie Library in the City of Paso Robles, California, which was damaged by the 2003 San Simeon earthquake, so that the library is brought into conformance with all local code requirements for new construction: Provided, That the appropriate Federal share shall apply to approval for this project.

SEC. 534. Notwithstanding any other provision of law, the Secretary of Homeland Security shall consider eligible under the Federal Emergency Management Agency Public Assistance Program costs for the damage to canals and wooden flumes, which was incurred during a 1996 storm and subsequent mudslide in El Dorado County, California, to the El Dorado Irrigation District, based on fifty percent of the costs of the Improved Project for the Mill Creek to Bull Creek tunnel proposed in a November 2001 Carleton Engineering Report: Provided, That the appropriate Federal share shall apply to approval for this project.

SEC. 535. Notwithstanding any other provision of law, the Secretary of Homeland Security shall consider eligible under the Federal Emergency Management Agency Public Assistance Program the costs sufficient to enable replacement of research and education materials and library collections and for other non-covered losses at the University of Hawaii Manoa campus, Hawaii, resulting from an October 30, 2004, flood event.

SEC. 536. Section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)) is amended by striking ''the Internal Revenue Code of 1954 and agriculture as defined in section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)),'' and inserting ''the Internal Revenue Code of 1986, agriculture as defined in section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)), and the pressing of apples for cider on a farm,''.

SEC. 537. Using funds made available in this Act, the Secretary of Homeland Security shall provide that each office within the Department that handles documents marked as Sensitive Security Information (SSI) shall have at least one employee in that office with authority to coordinate and make determinations on behalf of the agency that such documents meet the criteria for marking as SSI: Provided, That not later than December 31, 2005, the Secretary shall submit to the Committees on Appropriations of the Senate and the House of Representatives: (1) Department-wide policies for designating, coordinating and marking documents as SSI; (2) Department-wide auditing and accountability procedures for documents designated and marked as SSI; (3) the total number of SSI Coordinators within the Department; and (4) the total number of staff authorized to designate SSI documents within the Department: Provided further, That not later than January 31, 2006, the Secretary shall provide to the Committees on Appropriations of the Senate and the House of Representatives the title of all DHS documents that are designated as SSI in their entirety during the period October 1, 2005, through December 31, 2005: Provided further, That not later than January 31 of each succeeding year, starting on January 31, 2007, the Secretary shall provide annually a similar report to the Committees on Appropriations of the Senate and the House of Representatives on the titles of all DHS documents that are designated as SSI in their entirety during the period of January 1 through December 31 for the preceding year: Provided further, That the Secretary shall promulgate guidance that includes common but extensive examples of SSI that further define the individual categories of information cited under 49 CFR 1520(b)(1) through (16) and eliminates judgment by covered persons in the application of the SSI marking: Provided further, That such guidance shall serve as the primary basis and authority for the marking of DHS information as SSI by covered persons.

SEC. 538. For grants to States pursuant to section 204(a) of the REAL ID Act of 2005 (Division B of Public Law 109–13), $40,000,000, to remain available until expended: Provided, That of the funds provided under this section, $34,000,000 may not be obligated or allocated for grants until the Committees on Appropriations of the Senate and the House of Representatives receive and approve an implementation plan for the responsibilities of the Department of Homeland Security under the REAL ID Act of 2005 (Division B of Public Law 109–13), including the proposed uses of the grant monies: Provided further, That of the funds provided under this section, not less than $6,000,000 shall be made available within 60 days from the date of enactment of this Act to States for pilot projects on integrating hardware, software, and information management systems.

SEC. 539. For activities related to the Department of Homeland Security Working Capital Fund, subsection (f) of section 403 of Public Law 103–356 (31 U.S.C. 501 note), is amended by striking ''October 1, 2005'' and inserting ''October 1, 2006''.

SEC. 540. For fiscal year 2006 and thereafter, notwithstanding section 553 of title 5, United States Code, the Secretary of Homeland Security shall impose a fee for any registered traveler program undertaken by the Department of Homeland Security by notice in the Federal Register, and may modify the fee from time to time by notice in the Federal Register: Provided, That such fees shall not exceed the aggregate costs associated with the program and shall be credited to the Transportation Security Administration registered traveler fee account, to be available until expended.

SEC. 541. A person who has completed a security awareness training course approved by or operated under a cooperative agreement with the Department of Homeland Security using funds made available in fiscal year 2006 and thereafter or in any prior appropriations Acts, who is enrolled in a program recognized or acknowledged by an Information Sharing and Analysis Center, and who reports a situation, activity or incident pursuant to that program to an appropriate authority, shall not be liable for damages in any action brought in a Federal or State court which result from any act or omission unless such person is guilty of gross negligence or willful misconduct.

SEC. 542. Of the unobligated balances available in the ''Department of Homeland Security Working Capital Fund'', $15,000,000 are rescinded.

SEC. 543. Of the unobligated balances from prior year appropriations made available for Transportation Security Administration ''Aviation Security'', $5,500,000 are rescinded.

SEC. 544. Of funds made available for the United States Coast Guard in previous appropriations Acts, $6,369,118 are rescinded, as follows: (1) $499,489 provided for ''Coast Guard, Acquisition, Construction, and Improvements'' in Public Law 105–277; (2) $87,097 provided for ''Coast Guard, Operating Expenses'' in Public Law 105–277; (3) $269,217 provided for ''Coast Guard, Acquisition, Construction, and Improvements'' in Public Law 107–87; (4) $8,315 provided for ''Coast Guard, Acquisition, Construction, and Improvements'' in Public Law 106–69; and (5) $5,505,000 for ''Coast Guard, Acquisition, Construction, and Improvements'' in Public Law 108–90.

SEC. 545. Of the unobligated balances from prior year appropriations made available for the ''Counterterrorism Fund'', $8,000,000 are rescinded.

SEC. 546. Of the unobligated balances from prior year appropriations made available for Science and Technology ''Research, Development, Acquisition, and Operations'', $20,000,000 are rescinded.

SEC. 547. SECURITY SCREENING OPT-OUT PROGRAM. Section 44920 of title 49, United States Code, is amended by adding at the end the following:

''(g) OPERATOR OF AIRPORT.—Notwithstanding any other provision of law, an operator of an airport shall not be liable for any claims for damages filed in State or Federal court (including a claim for compensatory, punitive, contributory, or indemnity damages) relating to—

''(1) such airport operator's decision to submit an application to the Secretary of Homeland Security under subsection (a) or section 44919 or such airport operator's decision not to submit an application; and

''(2) any act of negligence, gross negligence, or intentional wrongdoing by—

''(A) a qualified private screening company or any of its employees in any case in which the qualified private screening company is acting under a contract entered into with the Secretary of Homeland Security or the Secretary's designee; or

''(B) employees of the Federal Government providing passenger and property security screening services at the airport.

''(3) Nothing in this section shall relieve any airport operator from liability for its own acts or omissions related to its security responsibilities, nor except as may be provided by the Support Anti-Terrorism by Fostering Effective Technologies Act of 2002 shall it relieve any qualified private screening company or its employees from any liability related to its own acts of negligence, gross negligence, or intentional wrongdoing.''.

SEC. 548. The weekly report required by Public Law 109–62 detailing the allocation and obligation of funds for ''Disaster Relief'' shall include: (1) detailed information on each allocation, obligation, or expenditure that totals more than $50,000,000, categorized by increments of not larger than $50,000,000; (2) the amount of credit card purchases by agency and mission assignment; (3) obligations, allocations, and expenditures, categorized by agency, by State, and for New Orleans, and by purpose and mission assignment; (4) status of the Disaster Relief Fund; and (5) specific reasons for all waivers granted and a description of each waiver: Provided, that the detailed information required by paragraph (1) shall include the purpose; whether the work will be performed by a governmental agency or a contractor; and, if the work is to be performed by a contractor, the name of the contractor, the type of contract let, and whether the contract is sole-source, full and open competition, or limited competition.

This Act may be cited as the ''Department of Homeland Security Appropriations Act, 2006''.

And the Senate agree to the same.

HAROLD ROGERS,
ZACH WAMP,
TOM LATHAM,
JO ANN EMERSON,
JOHN E. SWEENEY,
JIM KOBLE,
ERNEST J. ISTOOK, JR.,
RAY LAHOOD,
ANDER CRENSHAW,
JOHN R. CARTER,
JERRY LEWIS,
MARTIN OLAV SABO,
DAVID E. PRICE,
JOSÉ E. SERRANO,
LUCILLE ROYBAL-ALLARD,

SANFORD D. BISHOP,
CHET EDWARDS,
Managers on the Part of the House.

JUDD GREGG,
THAD COCHRAN,
TED STEVENS,
ARLEN SPECTER,
PETE DOMENICI,
RICHARD SHELBY,
LARRY CRAIG,
ROBERT F. BENNETT,
WAYNE ALLARD,
ROBERT C. BYRD,
DANIEL K. INOUYE,
PATRICK J. LEAHY,
BARBARA A. MIKULSKI,
HERB KOHL,
HARRY REID,
DIANNE FEINSTEIN,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2360), making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effects of the action agreed upon by the managers and recommended in the accompanying conference report.

Senate Amendment. The Senate deleted the entire House bill after the enacting clause and inserted the Senate bill. The conference agreement includes a revised bill. Throughout the accompanying explanatory statement, the managers refer to the Committee and the Committees on Appropriations. Unless otherwise noted, in both instances, the managers are referring to the House Subcommittee on Homeland Security and the Senate Subcommittee on Homeland Security.

The language and allocations contained in House Report 109–79 and Senate Report 109–83 should be complied with unless specifically addressed to the contrary in the conference report and statement of managers. The statement of managers, while repeating some report language for emphasis, does not intend to negate the language referred to above unless expressly provided herein. In cases where both the House and Senate reports address a particular issue not specifically addressed in the conference report or joint statement of managers, the conferees have determined that the House report and Senate report are not inconsistent and are to be interpreted accordingly. In cases where the House or Senate report directs the submission of a report, such report is to be submitted to both Committees on Appropriations. Further, in a number of instances, House Report 109–79 and Senate Report 109–83 direct agencies to report to the Committees by specific dates. In those instances, and unless alternative dates are provided in the accompanying explanatory statement, agencies are directed to provide these reports to the Committees on Appropriations no later than February 10, 2006.

CLASSIFIED PROGRAMS

Recommended adjustments to classified programs are addressed in a classified annex accompanying this report.

TITLE I—DEPARTMENTAL MANAGEMENT AND OPERATIONS

OFFICE OF THE SECRETARY AND EXECUTIVE MANAGEMENT

The conferees agree to provide $79,409,000 instead of $113,139,000 as proposed by the House and $124,620,000 as proposed by the Senate. Funding shall be allocated as follows:

Immediate Office of the Secretary	$2,393,000
Immediate Office of the Deputy Secretary	1,132,000
Chief of Staff	4,103,000
Executive Secretary	4,131,000
Office of Policy	20,713,000
Office of Public Affairs	8,312,000
Office of Legislative and Intergovernmental Affairs	6,325,000
Office of General Counsel	11,267,000
Office of Civil Rights and Liberties	13,000,000
Citizenship and Immigration Services Ombudsman	3,652,000
Privacy Officer	4,381,000
Total	$79,409,000

DHS REORGANIZATION

Since March 2005, the Department of Homeland Security (DHS) has been conducting an internal review of its policies, operations and organizational structure, known as the ''Second Stage Review''. On July 13, 2005, the Department announced a major reorganization that reflects the findings of this review. A budget amendment was submitted on July 21, 2005, requesting the appropriations structure be modified for fiscal year 2006 to reflect this reorganization proposal. For the most part, the conferees have complied with these requests. The conferees concur with the Department's decision to abolish the Office of the Under Secretary for Border and Transportation Security (BTS); BTS functions have been merged into other offices and component agencies throughout the Department. The conferees have agreed to split the Directorate of Information Analysis and Infrastructure Protection into two new components—Analysis and Operations and the Preparedness Directorate—and move all State and local grants and associated activities to the new Preparedness Directorate. The conferees concur with the Secretary's recommendation to transfer the Federal Air Marshals to the Transportation Security Administration. Finally, the conferees have included and expanded the roles and responsibilities of the Office of Policy. A more detailed discussion of this reorganization is contained under statement of managers language for each impacted office.

NEW STAFF

The conferees agree to provide funding to support a total of seven new full-time equivalents (FTEs) requested in the budget, including one FTE in the Office of Policy to represent the United States at the European Union, two FTEs in Office of General Counsel, and four FTEs in the Privacy Office. The conferees have approved additional new FTEs for the Office of Security and the Office of National Capital Region Coordination elsewhere in this statement of managers, reflecting changes recommended as a result of the Secretary's organizational restructuring plan submitted on July 13, 2005. The remaining FTEs requested in the budget have been denied due to a large number of unfilled positions in these individual offices. Except for the Privacy Office and the representative to the European Union, the conferees believe full-year funding is not necessary for salaries of employees who are not yet on-board. The conferees have provided half-year funding for new staff in fiscal year 2006.

The conferees, in agreeing to the Secretary's organizational restructuring plan submitted on July 13, 2005, have moved additional staff from other agencies within the Department to various offices within the Office of the Secretary and Executive Management. These changes are discussed separately in each office.

ANNUAL BUDGET JUSTIFICATIONS

For fiscal year 2007, the conferees direct that the Congressional budget justifications for all departmental offices be submitted in the same level of detail as the detailed table contained in the back of this report and in the accompanying classified annex. These justifications should include detailed data and explanatory statements in support of each appropriations request, including tables that detail each departmental office program, project, and activity for fiscal years 2006 and 2007. All funding and staffing changes for each individual office must be highlighted and explained, including separate discussions for personnel, compensation, and benefits; travel; training; and other services. The classified budget documents must be submitted at the same time as the unclassified budget. The justifications must be in compliance with section 1105(a) of title 31, including explicit information by appropriations account program, project, and activity on all reimbursable agreements and all uses of the Economy Act for each fiscal year. The budget justifications shall include a table identifying the last year that authorizing legislation was provided by Congress for each program, project, or activity; the amount of the authorization; and the appropriation in the last year of authorization. Finally, in accordance with section 6025 of Public Law 109–13, the Department is required to submit a complete budget justification for the Working Capital Fund.

OFFICE OF POLICY

The conferees agree to provide $20,713,000 instead of $8,770,000 as proposed by the House and $7,258,000 as proposed by the Senate. The Secretary submitted a new organizational restructuring plan on July 13, 2005, which included major changes to the Office of Policy; the conference agreement reflects these changes. The conferees include the activities of the Special Assistant to the Secretary—Private Sector; Office of Immigration Statistics; 18 FTEs from the Office of the Under Secretary for BTS; and three FTEs from the Directorate of Information Analysis and Infrastructure Protection. The conferees have denied funding for the Operational Integration staff as part of this office or any other entity within DHS.

STOLEN PASSPORTS

The conferees direct the Secretary to report on Departmental actions to prevent and stop the use of stolen passports, as directed in House Report 109–79, under the Office of the Under Secretary for Border and Transportation Security.

OFFICE OF SECURITY

Funding for the Office of Security is provided within the Under Secretary for Management, as requested in the Secretary's organizational restructuring plan submitted on July 13, 2005.

OFFICE OF NATIONAL CAPITAL REGION COORDINATION

Funding for the Office of National Capital Region Coordination is provided within the Preparedness Directorate, Management and Administration account as requested in the Secretary's organizational restructuring plan submitted on July 13, 2005.

OFFICE OF LEGISLATIVE AND INTERGOVERNMENTAL AFFAIRS

The conferees agree to provide $6,325,000 instead of $5,500,000 as proposed by the House and $5,400,000 as proposed by the Senate. As proposed in the Secretary's organizational restructuring plan submitted on July 13, 2005, six FTEs are transferred from the Office of State and Local Government Coordination and Preparedness, Management and Administration account, to the Office of Legislative Affairs for intergovernmental coordination activities. Within the funds provided, $5,400,000 is for legislative affairs and $925,000 is for intergovernmental operations.

OPERATIONAL INTEGRATION STAFF

The conferees agree to provide no funding for the Operational Integration staff, as proposed by the Senate instead of $7,495,000 as proposed by the House. The conferees note the new Office of Policy will perform many of the proposed activities of the Operational Integration staff. For those few functions not adequately covered by the new Policy Office, the conferees include three new FTEs within Analysis and Operations. These additional staff shall be located within the Homeland Security Operations Center to coordinate departmental activities.

OFFICE OF THE PRIVACY OFFICER

The conferees agree to provide $4,381,000 for the Office of the Privacy Officer as proposed by the House instead of $3,981,000 as proposed by the Senate. This funding will support the hiring of four new FTEs. The conferees concur with House report language requiring the Secretary to instruct all DHS entities to respond to information and document requests from the Privacy Officer within the requested time frame.

OFFICE OF CIVIL RIGHTS AND CIVIL LIBERTIES

The conferees agree to provide $13,000,000 for the Office of Civil Rights and Civil Liberties and direct this office to hire ten additional staff to fulfill requirements of the Intelligence Reform and Terrorism Prevention Act (Public Law 108–458), as discussed in the Senate report.

REPORTING REQUIREMENTS

While DHS has made progress in submitting reports to the Committees on Appropriations, there are many that are still overdue. DHS is to improve its responsiveness to Congress and better monitor the status of reports requested in this statement of managers and previous House and Senate reports. For reports that cannot be issued by the due date, the conferees direct DHS to inform the Committees in a timely manner, explain the reason for the delay, and seek the concurrence of the Committees on a new issuance date.

IMMIGRATION ENFORCEMENT

Both the House and Senate reports highlighted the alarming statistics regarding our Nation's broken immigration system. In the context of threats facing our Nation, the disturbing growth in our illegal alien population shows immigration enforcement and border control are not succeeding. The conferees agree with the Sense of the Senate proviso expressed in section 519 of the Senate bill, which recognizes the reality of terrorists taking advantage of inadequate security along our border with Mexico, and the need for the Government of Mexico to improve border and security policies on its side of the border. The conferees include bill language directing the Secretary to develop a comprehensive immigration enforcement strategy that results in reducing the number of undocumented aliens in the United States by ten percent per year and direct that the strategy be in accordance with House Report 109–79. The funding is not contingent on the submission of this strategy to Congress as proposed by the House. Further, the conferees direct the report on the internal transport of illegal aliens requested in House Report 109–79 from the Under Secretary of Border and Transportation Security be included in the comprehensive immigration enforcement strategy report.

The conferees direct the Secretary to assume responsibility for the joint report between DHS and the U.S. Department of Justice on reducing absconders required by Senate Report 109–83, and submit the report not later than February 10, 2006.

CARGO CONTAINER SECURITY

The report submitted by the Department on June 9, 2005, was late and did not fully respond to directions of the statement of managers accompanying the conference report (H. Report 108–774) on the fiscal year 2005 Department of Homeland Security Appropriations Act (P.L. 108–334). The Department is directed to conduct the review again and submit a new report that fully complies with those requirements as soon as possible, but no later than February 10, 2006.

TRANSPORTATION SECURITY

In September 2005, the Department submitted its integrated strategic transportation security plan. With the recent events in London, it is even more critical the Department quickly begin to implement strategies outlined in this plan. The conferees direct the Secretary to update the Committees on Appropriations every six months on what progress has been made to enhance transportation security as outlined in the plan. The first update is due March 1, 2006.

GENERAL AVIATION SECURITY

The Secretary, in coordination with the Secretary of Transportation, shall submit a report to the House and Senate Committees on Appropriations; the Senate Committee on Commerce, Science, and Transportation; the Senate Committee on Homeland Security and Government Affairs; and the House Committee on Homeland Security no later than 120 days from the date of enactment of this Act on the vulnerability posed to high-risk areas and facilities from general aviation aircraft that could be stolen or used as a weapon against those areas. Such areas to be considered include those with critical transportation infrastructure, nuclear facilities, military bases, and other highly populated areas with similarly situated critical infrastructure. The report shall include: an analysis of what security vulnerabilities exist at general aviation airports that would permit a general aviation aircraft to be stolen and used as a weapon; whether existing security precautions to prevent breaches of flight lines, perimeters, and aircraft are sufficient; and any additional security measures that could increase the security of general aviation aircraft and airports.

CHEMICAL SECURITY

The conferees are pleased by the Department's recent endorsement of mandatory security requirements for the chemical sector and believe enforceable Federal standards to protect against a terrorist attack on chemical facilities within the United States are necessary. Despite testimony from the Director of Central Intelligence that the chemical industrial infrastructure is vulnerable to a terrorist attack, no federal security measures have been established for the chemical sector. The Department has concluded that, from a regulatory perspective, the existing patchwork of authorities does not permit the effective regulation of the chemical industry. Yet, no legislation has been proposed by the Department to give it such authority. The conferees direct the Secretary to submit a report to the Committees on Appropriations by February 10, 2006, on the resources needed to implement mandatory security requirements for the Nation's chemical sector and to create a system for auditing and ensuring compliance with the security standards. The report should also include a description of the security requirements and any reasons why the requirements should differ from those already in place for chemical facilities that operate in a port zone.

AWARDING OF GRANTS

Consistent with the Senate report, the conferees direct the Department to submit a report by February 10, 2006, providing an expedited schedule for award of grant funds made available by this Act, and for any prior year funds that remain unobligated. For those grant funds awarded after March 30, 2006, the conferees direct the Department to submit a detailed explanation for the delay.

QUADRENNIAL HOMELAND SECURITY REVIEW

The conferees agree there are benefits for the Department of Homeland Security in conducting a Quadrennial Homeland Security Review similar to the quadrennial reviews conducted by the Department of Defense. The conferees encourage the Department to conduct such a review consistent with the terms and conditions listed in section 523(a) through (c) of the Senate bill. The review should be submitted to the House and Senate Committees on Appropriations, the Senate Committee on Homeland Security and Governmental Affairs, and the House Committee on Homeland Security no later than September 30, 2008.

DATA MINING

The conferees continue to be concerned with the Department's possible use or development of data-mining technology and direct the DHS Privacy Officer to submit a report consistent with the terms and conditions listed in section 528 of the Senate bill.

WORKFORCE DIVERSITY

The conferees urge the Department to make every reasonable effort to ensure diversity in its workforce, procurement, and research partnerships. The conferees also urge the Department to strive to create partnerships and participation in the Centers of Excellence program by historically black colleges and universities, Hispanic-serving institutions, Alaska Native serving institutions and tribally-controlled colleges.

BORDER AND TRANSPORTATION SECURITY REPORTING

The conferees agree to eliminate the requirement set forth in the House report for the Under Secretary for Border and Transportation Security (BTS) to report on the roles and responsibilities of BTS agencies.

OFFICE OF SCREENING COORDINATION AND OPERATIONS

The conferees agree to provide $4,000,000 for the management and administration of the Office of Screening Coordination and Operations. The conferees do not agree to transfer United States Visitor and Immigrant Status Indicator Technology, Secure Flight, or any other program activities to this office. These activities are to remain separate and distinct and are funded under other appropriations in this Act.

OFFICE OF THE UNDER SECRETARY FOR MANAGEMENT

The conferees agree to provide $168,835,000 instead of $49,984,000 as proposed by the House and $146,322,000 as proposed by the Senate. Funding shall be allocated as follows:

Under Secretary for Management	$1,687,000
Office of Security	51,278,000
Business Transformation Office	1,880,000
Office of the Chief Procurement Officer	9,020,000
Office of the Chief Human Capital Officer	38,900,000
Office of the Chief Administrative Officer	66,070,000
Total	$168,835,000

NEW STAFF

The conferees agree to provide funding to support a total of 71 new full-time equivalents (FTEs), including 60 FTEs in the Office of Security, ten FTEs in the Office of Administration and one FTE for the Office of the Chief Human Capital Officer. Funding was not provided for the one new FTE requested by the Under Secretary for Management. The conferees believe full-year funding is not necessary for salaries of employees who are

not yet on-board and instead have provided half-year funding for the new staff in fiscal year 2006.

BUSINESS TRANSFORMATION OFFICE

The conferees agree to provide $1,880,000 for the Business Transformation Office instead of $948,000 as proposed by the House and $920,000 as proposed by the Senate. Funding levels reflect a transfer of seven FTEs from the Under Secretary for Border and Transportation Security, as requested in the Secretary's organizational restructuring plan submitted on July 13, 2005.

OFFICE OF THE CHIEF PROCUREMENT OFFICER

The conferees agree to provide $9,020,000 for the Office of the Chief Procurement Officer. As discussed in the Senate report, the conferees direct the Chief Procurement Officer to use the increased funding to hire and train qualified procurement officers, to report on the number of procurement officers in the Department, including each organization, for fiscal years 2004, 2005, and proposed for 2006, and to provide an assessment of the adequacy of the numbers and training of those personnel.

OFFICE OF THE CHIEF HUMAN CAPITAL OFFICER

The conferees agree to provide $38,900,000 instead of $61,951,000 as proposed by the House and $61,996,000 as proposed by the Senate. Within the funds provided, $8,900,000 is for salaries and expenses and $30,000,000 is for the new human resource management system, known as MAX–HR. As discussed in the Senate report, the conferees direct the Department to submit a report on the progress made to implement the MAX–HR system. In addition to the total funding available and needed for this program by year, the report shall list all contract obligations and expenditures by contractor by year, along with the purpose of the contract.

OFFICE OF THE CHIEF ADMINISTRATIVE OFFICER

The conferees agree to provide $66,070,000 instead of $66,356,000 as proposed by the House and $66,801,000 as proposed by the Senate. Within the funds provided, $40,000,000 is for salaries and expenses and $26,070,000 is to consolidate and integrate headquarter operations at the Nebraska Avenue Complex (NAC).

Of the $26,070,000 provided for the NAC, $8,300,000 is for security enhancements, $10,257,000 is for tenant improvements, $3,400,000 is for capital improvements, and $4,113,000 is for campus-wide design and construction costs. The conferees agree to language included in the Senate report directing the Department to update the Committees on Appropriations regularly on the physical consolidation and planned expenditures for the NAC, as well as its plans for a permanent headquarters. These updates should occur as frequently as necessary but not less than quarterly.

OFFICE OF IMMIGRATION STATISTICS

Funding for the Office of Immigration Statistics is provided within the Office of the Secretary and Executive Management, as requested in the Secretary's organizational restructuring plan submitted on July 13, 2005.

OFFICE OF SECURITY

The conferees agree to provide $51,278,000 as proposed by the House instead of $55,278,000 as proposed by the Senate. The conferees agree to move the Office of Security to the Office of the Under Secretary for Management, as requested in the Secretary's organizational restructuring plan submitted on July 13, 2005.

SENSITIVE SECURITY INFORMATION

The conferees agree to include a general provision (section 537) on Sensitive Security Information (SSI) as proposed by the House. The conferees are concerned that because of insufficient management controls, information that should be in the public domain may be unnecessarily withheld from public scrutiny. The conferees require the Secretary to ensure that each appropriate office has an official with the clear authority to designate documents as SSI and to provide clear guidance as to what is SSI material and what is not. Designation means an original determination made by a limited number of appointed officials pursuant to 49 CFR §1520.5(b (1)–(16)). The conferees direct the Secretary to report to the Committees not later than January 3, 2006, the titles of all documents that are designated by DHS as SSI in their entirety during the period beginning October 1, 2005, and ending December 31, 2005, and a full-year report each year thereafter.

CLASSIFIED AND SECURITY SENSITIVE DOCUMENTS

The conferees direct the Office of Security to ensure the Department's classified and security sensitive documents clearly identify, paragraph-by-paragraph, which paragraphs contain classified information and which do not. This is consistent with actions taken by other federal agencies.

UNOBLIGATED BALANCES

The conferees direct the Under Secretary for Management to submit a report listing all funds transferred to the Department when it was formed that remain unobligated, the purpose for which the funds were appropriated, the reason the funds remain unobligated, and the Department's plans for the use of these funds, as discussed in the Senate report.

WORKING CAPITAL FUND

The conferees agree to include a provision (section 542) that rescinds $15,000,000 from the Department's Working Capital Fund (WCF) instead of $7,000,000 as proposed by the House and $12,000,000 as proposed by the Senate.

The conferees direct the Department to use the WCF plan submitted on April 11, 2005, as the base document for funding decisions in fiscal year 2006. The Committees on Appropriations shall be notified and must approve any deviations from that plan. In addition, section 6024 of Public Law 109–13 excludes funding of the Homeland Secure Data Network (HSDN) within the WCF. The conferees continue to support this position and have provided adequate funding for HSDN within the Office of the Chief Information Officer. The WCF should not be used to supplement HSDN without notification and approval of the Committees.

OFFICE OF THE CHIEF FINANCIAL OFFICER

The conferees agree to provide $19,405,000 instead of $18,505,000 as proposed by the House and $18,325,000 as proposed by the Senate. Funding levels reflect a transfer of seven FTEs from the Under Secretary for Border and Transportation Security, as requested in the Secretary's organizational restructuring plan submitted on July 13, 2005.

MONTHLY REPORTING REQUIREMENTS

The Department is directed to submit a monthly budget execution report that includes: the total obligational authority appropriated (new budget authority plus unobligated carryover), undistributed obligational authority, amount allotted, current year obligations, unobligated authority (the difference between total obligational authority and current year obligations), beginning unexpended obligations, year-to-date costs, and year end unexpended obligations. This budget execution information is to be provided at the level of detail shown in the tables displayed at the end of this report for each Departmental component and the Working Capital Fund. This report must be submitted to the Committees on Appropriations no later than 45 days after the close of each month.

OFFICE OF THE CHIEF INFORMATION OFFICER

The conferees agree to provide $297,229,000 for the Office of the Chief Information Officer (CIO) instead of $303,700,000 as proposed by the House and $286,540,000 as proposed by the Senate. Funding shall be allocated as follows:

Salaries and Expenses	$75,756,000
Information Technology Services	83,444,000
Human Resources	21,000,000
Emerge2	18,000,000
Information Technology Support	44,444,000
Security Activities	19,000,000
Terrorist watch list integration	10,000,000
Information Security and Infrastructure	9,000,000
Wireless Program	86,000,000
Replace legacy border components	16,000,000
New investments in radio infrastructure—borders	52,000,000
Infrastructure optimization and upgrade	18,000,000
Homeland Secure Data Network	33,029,000
Total	297,229,000

INFORMATION TECHNOLOGY INVESTMENTS

The conferees are concerned with the lack of coordination within the Department regarding its information technology (IT) activities. In the interest of fully leveraging and optimizing the potential contribution of IT investments in meeting the homeland security mission while controlling IT investment costs, maintaining schedules, and delivering capabilities, it is critical DHS clearly articulate its objectives and needs. In addition, the conferees are disappointed that, for the last two years, major portions of the IT activities have not been properly displayed in the budget. The conferees direct the CIO to follow the Committees' direction regarding the content and format of appropriations justifications found within the Office of the Secretary for all IT investments.

The conferees agree to include bill language requiring the Department to submit an expenditure plan within 60 days from the date of enactment of this Act for all IT projects funded through the CIO, or funded by multiple components of the Department

through reimbursable agreements. This expenditure plan shall also include a detailed program assessment of the scope; total estimated cost; cost by year; and the schedule for completion, including significant milestones, for each individual project funded for fiscal year 2006 for information technology services, security activities, and wireless programs.

The conferees direct the CIO to provide a report by February 10, 2006, to include: an update of the information technology system inventory dated September 15, 2005; the status and timeline of security certifications for each system; the status of aligning each system with an appropriate investment portfolio; and the status of identifying the systems and/or applications that will migrate to the National Center for Critical Information Processing and Storage during fiscal year 2006.

The conferees agree to include bill language requiring the Department to report on the enterprise architecture and other strategic planning; an Information Technology Human Capital Plan, to include an inventory of current IT work force knowledge and skills, a gap analysis of any shortfalls, and a plan for addressing any shortfalls; a capital investment plan for implementing the enterprise architecture; and a description of the IT capital planning and investment control process. The report must be reviewed and approved by the Office of Management and Budget, reviewed by the Government Accountability Office, and delivered to the Committees within 180 days of enactment of this Act.

The conferees are aware the Department plans to consolidate DHS component agency data centers into two primary data centers. Consistent with section 888 of Public Law 107–296, the conferees instruct the Department to implement the consolidation plan in a manner that shall not result in a reduction to the Coast Guard's Operations System Center mission or its government-employed or contract staff levels.

The conferees have included funding of $33,029,000 for the Homeland Secure Data Network (HSDN) within this account as proposed by the Senate. Other accounts that formerly had resources requested for the HSDN have been reduced accordingly.

Within the total for Information Technology Services, the conferees agree to provide $13,255,000 for Geospatial activities; $2,500,000 for Solutions Engineering; $4,500,000 for Enterprise Applications Delivery; $2,000,000 for e-Gov Initiatives; $5,500,000 for Program Management Support; $1,500,000 for Comsec Modernization; and $3,000,000 for Smartcard Activities. The conferees agree to provide no funding for the MedaData Center of Excellence or the Applied Technology program.

ANALYSIS AND OPERATIONS

The conferees agree to provide $255,495,000 for Analysis and Operations (A&O). The conferees establish this new appropriation in response to the Secretary's organizational restructuring plan submitted on July 13, 2005, and include resources previously provided under the Directorate of Information Analysis and Infrastructure Protection (IAIP) and the Office of the Under Secretary for Border and Transportation Security. The conferees direct the Department to submit a detailed expenditure plan describing the intended use of this funding. This plan shall be provided no later than 60 days from the date of enactment of this Act. The conference recommendation includes sufficient funding to complete distribution of National Weather Service all-hazards radios to schools on a priority basis as proposed by the Senate.

The conferees reduce funding for IAIP Management and Administration transferred to this account based on a continuing large number of vacancies. The Secretary shall submit to the Committees on Appropriations no later than February 10, 2006, a report that identifies staffing and other resource requirements that reconciles the Department's intelligence mission responsibilities under the various Acts and executive orders.

OFFICE OF INSPECTOR GENERAL

The conferees agree to provide $83,017,000 for the Office of Inspector General as proposed by the House and the Senate.

PORT SECURITY

The conferees direct the Inspector General to review the steps the Department has taken to comply with recommendations contained in the Inspector General's report on port security grants (OIG–05–10). This report should be submitted to the House and Senate Committees on Appropriations; the Senate Committee on Commerce, Science, and Transportation; the Senate Committee on Homeland Security and Government Affairs; and the House Committee on Homeland Security no later than February 10, 2006.

TITLE II—SECURITY, ENFORCEMENT, AND INVESTIGATIONS

OFFICE OF THE UNDER SECRETARY FOR BORDER AND TRANSPORTATION SECURITY

SALARIES AND EXPENSES

The conferees agree to provide no funding for this appropriation, as proposed in the Secretary's organizational restructuring plan submitted on July 13, 2005, which abolished the Office of the Under Secretary for Border and Transportation Security (BTS), instead of $8,617,000 as proposed by the House and $9,617,000 as proposed by the Senate. Funding for the functions currently performed by this office is included under other appropriations in this Act and is identified accordingly.

UNITED STATES VISITOR AND IMMIGRANT STATUS INDICATOR TECHNOLOGY

The conferees agree to provide $340,000,000 as proposed by the Senate instead of $390,000,000 as proposed by the House. Of these funds, $86,000,000 is available for program management and operations, and $159,658,000 is subject to the requirements of a detailed expenditure plan.

In the statement of managers accompanying the conference report on Public Law 108–334, the Department was directed to submit a report by January 14, 2005, on the status of efforts between the Departments of Homeland Security and Justice to achieve real-time interoperability between the Integrated Automated Fingerprint Identification System and the Automated Biometric Identification System. The Committees on Appropriations did not receive the report until August 22, 2005. The conferees direct the cost and schedule estimate referred to in the report be completed no later than November 20, 2005, so the results can be incorporated into the fiscal year 2006 United States Visitor and Immigrant Status Indicator Technology (US–VISIT) expenditure plan and the fiscal year 2007 President's Budget.

The conferees are encouraged by the Department's announcement of its plans to migrate the US–VISIT program to a ten-fingerprint system—a major step toward full interoperability. The Department is directed to work with the Department of State and report expeditiously on what resources it will need and what actions it will take to achieve this goal.

Finally, the conferees direct that US–VISIT adhere to the most stringent standards in developing and testing its system plans prior to their being deployed or made operational.

CUSTOMS AND BORDER PROTECTION

SALARIES AND EXPENSES

The conferees agree to provide $4,826,323,000 for Customs and Border Protection (CBP), instead of $4,885,544,000 as proposed by the House and $4,922,600,000 as proposed by the Senate. This includes: $1,796,464,000 for border security between ports of entry, including 1,000 additional Border Patrol Agents and $79,496,000 to annualize the cost of 500 Border Patrol Agents funded in Public Law 109–13; $63,024,000 for inspection and detection technology investments, including $1,018,000 to continue the in-bond container security study; $4,000,000 for the Immigration Advisory Program; $500,000 to continue steel tariff training; $54,268,000 for the Customs-Trade Partnership Against Terrorism; $7,000,000 for the FAST program; $14,000,000 for the SENTRI and NEXUS programs; $9,134,000 for the Advanced Training Center; not less than $163,560,000 for the salaries and expenses for the Office of Air and Marine Operations, including $5,000,000 for additional staff, equipment and operations, $5,500,000 for a new Montana Northern Border airwing, and $17,000,000 to cover salaries and expenses associated with the integration of former Border Patrol pilots. Funding was decreased by $12,725,000 from the President's request to reflect that enforcement of forced child labor laws is now a responsibility of Immigration and Customs Enforcement, and by $49,651,000 to reflect all funding for procurement, operations and maintenance of aircraft and marine vessels is included in the Air and Marine Interdiction, Operations, Maintenance, and Procurement appropriation. The conferees make $10,000,000 unavailable for obligation until a detailed five year plan for air and marine operations is submitted to the Committees on Appropriations. No funding is provided in this account for radiation portal monitors. The conferees do not include a rescission of $14,400,000 as proposed by the Senate.

The following table specifies funding by budget activity:

Headquarters Management and Administration:	
Border Security Inspections and Trade Facilitation	$655,000,000
Border Security and Control Between Ports of Entry	590,000,000
Subtotal, Headquarters Management and Administration	1,245,000,000
Border Security Inspections and Trade Facilitation:	
Inspections, Trade and Travel Facilitation at Ports of Entry	1,262,269,000
Harbor Maintenance Fee Collection (Trust Fund)	3,000,000
Container Security Initiative	138,790,000
Other International Programs	8,629,000
Customs-Trade Partnership Against Terrorism/Free and Secure Trade (FAST)/SENTRI/NEXUS	75,268,000
Inspection and Detection Technology Investments	63,024,000
Automated Targeting Systems	28,253,000

National Targeting Center	16,697,000
Other Technology Investments, Including Information Technology	1,018,000
Training	24,351,000
Subtotal, Border Security Inspections and Trade Facilitation	1,621,299,000
Border Security and Control Between Ports of Entry:	
Border Security and Control	1,742,977,000
America's Shield Initiative	31,284,000
Training	22,203,000
Subtotal, Border Security and Control Between Ports of Entry	1,796,464,000
Air and Marine Operations, Salaries and Expenses	163,560,000
Total, Salaries and Expenses	$4,826,323,000

CONTAINER SECURITY

The conferees concur with the requirement, as detailed in the House report, for a report on how non-intrusive inspection technology system selection, use, and financing for the Container Security Initiative (CSI) could be improved, as well as the Senate report requirement on relations with CSI host nations, to include: steps to explain CSI targeting to host governments; coordination with the State Department; options for withdrawal from uncooperative CSI host nations; and actions taken on Government Accountability Office recommendations for CSI improvement. The conferees direct the Commissioner to submit both reports not later than February 10, 2006.

TRAINING

The conferees concur with the Senate report regarding sixth training day compensation.

EXPEDITED REMOVAL

The conferees are aware the Department has announced a plan to expand its expedited removal program, following success in reducing the overall cost of detention housing for other than Mexican nationals in the Laredo and Tucson sectors, in reducing the number of aliens released on their own recognizance, and in increasing deterrence. The conferees direct the Department to report not later than February 10, 2006, on Border Patrol costs associated with the expanded expedited removal program.

BORDER CROSSING CARDS

The conferees endorse Senate report language requesting a report on Border Crossing Cards and card scanners.

ENFORCEMENT OF TRADE REMEDIES LAW

The conferees have ensured that, of the amounts provided within this account, sufficient funds are available to enforce the antidumping authority contained in section 754 of the Tariff Act of 1930 (19 U.S.C. 1675c).

The conferees direct CBP to continue to work with the Department of Commerce, the Department of Treasury, the Office of the United States Trade Representative, and all other relevant agencies, to provide semiannual reports on its efforts to collect past due amounts and to increase current collections. Furthermore, by June 30, 2006, CBP is to provide the Committees on Appropriations with an update of its report submitted on July 7, 2005, describing interagency efforts to create a coordinated plan to increase antidumping and countervailing duty collections, particularly related to cases involving unfairly traded Asian imports. The report should break out the non-collected amounts for fiscal years 2004 and 2005, by order and claimant, along with a description of the specific reasons for the non-collection with respect to each order.

The conferees direct CBP to confirm that it has completed all of the initiatives, processes, and procedures identified in its February 2005 report to the Committees on Appropriations (including Attachment 1) regarding implementation of the recommendations that were contained in the U.S. Treasury Department Office of the Inspector General report on the Continued Dumping and Subsidy Offset Act. Further, the conferees direct CBP to implement the five recommendations for executive action contained in the GAO report (GAO–05–979) dated September 2005. If those processes and procedures have not been completed, CBP is directed to provide an explanation as to why they have not been completed, and a deadline for when they will be completed. This includes the deadlines for implementing the processes and procedures for verification, including, in particular, the development of the sampling methodology to validate the claimed amount; the testing plan; and all accompanying aspects of verification.

AMERICA'S SHIELD INITIATIVE

The conferees have not provided the requested increase of $19,800,000 for America's Shield Initiative (ASI). At this time, the conferees understand the Department is reviewing the entire planning process for ASI and may suspend all major procurement action until it has resolved fundamental questions about scope and architecture, and possibly its relation to overall, nationwide border domain security and awareness. The conferees expect to be kept informed of the results of this review before the Department proceeds with any significant action and concur with House reporting requirements. The conferees encourage program managers to explore the use of commercial, airborne, off-the-shelf wireless technology as it develops this program.

AGRICULTURAL INSPECTIONS

The conferees direct the Department, in coordination with the U.S. Department of Agriculture, to submit a report by February 10, 2006, providing the information requested in Senate Report 109–83 concerning reduced agricultural inspection levels.

TEXTILE TRANSSHIPMENT ENFORCEMENT

Section 352 of the Trade Act of 2002 authorizes funding for Customs Service textile transshipment enforcement, and specifies how the funds be spent. The conferees include $4,750,000 to continue this effort and direct CBP to report not later than February 10, 2006, on obligating these funds, as well as those appropriated in fiscal years 2004 and 2005. The report should include staffing levels in fiscal years 2003–2006, differentiated by position, as authorized in section 352 of the Trade Act of 2002, and include a five-year enforcement plan. The report should also describe how CBP has redeployed its workforce previously assigned to enter and monitor quota information now that quotas have expired.

TOBACCO IMPORTS

The conferees endorse the requirements set forth in both the House and Senate reports regarding tobacco product imports and direct the Department to comply with them.

AUTOMATION MODERNIZATION

The conferees agree to provide $456,000,000 instead of $458,009,000 as proposed by both the House and the Senate. This amount includes funding for the Automated Commercial Environment (ACE), the Integrated Trade Data System (ITDS), and the costs of the legacy Automated Commercial System. This funding includes not less than $320,000,000 for ACE and ITDS, of which $16,000,000 is for ITDS, and all of which remains subject to approval of an expenditure plan.

AIR AND MARINE INTERDICTION, OPERATIONS, MAINTENANCE, AND PROCUREMENT

The conferees agree to provide $400,231,000 instead of $347,780,000 as proposed by the House and $320,580,000 as proposed by the Senate. This includes: $15,000,000 for palletized sensor systems for P–3 long range tracker aircraft; $16,000,000 for P–3 service life extension; $14,000,000 for manned, covert surveillance aircraft; $12,800,000 for the Montana Northern Border air branch; $20,000,000 for replacement of Border Patrol helicopters; $10,180,000 for unmanned aerial vehicles; $19,471,000 for operations and maintenance of legacy Border Patrol aircraft and marine vessels; and $2,000,000 to begin work on a North Dakota air wing.

P–3 AIRCRAFT

The conferees recognize the CBP P–3 fleet is a critical asset in both homeland security and drug interdiction missions. As CBP implements a service life extension program for its P–3 aircraft, the conferees encourage CBP to adopt the most cost-effective long-term solution for the maximum life extension of its P–3 fleet. In addition, the conferees are aware the U.S. Navy and most nations who fly the P–3 have made service life assessments of their aircraft. The conferees believe CBP should undertake similar assessments to document the airworthiness and structural life remaining in the CBP fleet and direct the Commissioner to incorporate the results of such a service life assessment into the modernization plan.

UNMANNED AERIAL VEHICLES

The conferees agree to provide $10,180,000 for unmanned aerial vehicles, as requested by the President and proposed by both the House and Senate, which may be deployed between ports of entry on the Southwest Border.

CBP AIR PROGRAM

The conferees are aware that the Commissioner plans to combine air operations of the Office of Air and Marine Operations and the Office of Border Patrol into ''CBP Air'', and the conference agreement adjusts the budget accordingly. The conferees direct the Department to implement fully the recommendations in GAO report GAO–05–543 and, as integration proceeds, to consult with the Committees on Appropriations before making any changes in the nature and level of support for legacy air missions.

STRATEGIC PLAN, MODERNIZATION AND RECAPITALIZATION

The conferees remind the Department that detailed information requested in previous conference reports has yet to be provided. With CBP air integration under way, it is essential Congress receive information to understand the status and requirements of the CBP air and marine programs. The conferees withhold $10,000,000 from the CBP Salaries and Expenses appropriation until the Committees on Appropriations receive a five-

year strategic plan for CBP Air (and marine, if complete) that addresses missions, structure, operations, equipment, facilities and resources, including deployment and command and control requirements. This report is to include a modernization plan, including milestones and funding required to recapitalize its fleet and operations, as well as a detailed staffing plan showing current onboard positions, annual targets, and a timetable with associated costs to achieve full staffing to meet all mission requirements.

NATIONAL AVIATION CENTER

The conferees understand the Oklahoma City National Aviation Center has augmented its pilot training with computer-based instructions and simulation, which has increased training efficiency while decreasing costs. The conferees direct the Department to continue this approach.

NORTHERN BORDER AIRWINGS

The conferees believe remaining gaps in air patrol coverage of the Northern Border should be closed as quickly as possible and include $2,000,000 for the initial site assessment, facilities evaluation, lease preparation and other activities associated with the fifth Northern Border airwing in Grand Forks, North Dakota. The conferees direct the Department to include in its fiscal year 2007 budget request the resources necessary to establish the airwing.

CONSTRUCTION

The conferees agree to provide $270,000,000 instead of $93,418,000 as proposed by the House and $311,381,000 as proposed by the Senate. This includes: $81,963,000 for facilities to accommodate 1,000 additional Border Patrol Agents; $35,000,000 for the San Diego fence construction project; $35,000,000 for tactical infrastructure projects in the Tucson sector; and $26,000,000 for the Advanced Training Center. The conferees direct CBP to provide a spending plan and a revised master plan to the Committees on Appropriations that reflects this funding.

IMMIGRATION AND CUSTOMS ENFORCEMENT

SALARIES AND EXPENSES

The conferees agree to provide $3,108,499,000 for Immigration and Customs Enforcement (ICE) Salaries and Expenses, instead of $3,064,081,000 as proposed by the House and $3,052,416,000 as proposed by the Senate. This includes an additional $90,000,000 for additional bedspace capacity, including corresponding support positions; $42,000,000 for additional criminal investigator positions; $35,000,000 to annualize new positions and programs funded in Public Law 109–13; $9,000,000 for Immigration Enforcement Agents to support civil and administrative investigations; $16,000,000 for additional fugitive operations teams; $18,000,000 to expand the Institutional Removal Program; $10,000,000 to expand Alternatives to Detention, including the Intensive Supervision Appearance Program; $1,000,000 to increase the speed, accuracy and efficiency of immigration enforcement information currently being entered into the National Criminal Information Center database; $5,000,000 for the Cyber Crimes Center; $15,770,000 for enforcement of laws against forced child labor, as offset by a reduction in Customs and Border Protection, Salaries and Expenses; $5,000,000 for implementation of section 287(g) of the Immigration and Nationality Act; $10,000,000 for the worksite enforcement program; and $2,000,000 for transfer to the U.S. Department of Justice for the Legal Orientation Program. The conferees make $5,000,000 unavailable for obligation until the Committees on Appropriations receive a national detention management plan as described in the House report. The following table specifies funding by budget activity:

Headquarters Management and Administration:	
Personnel Compensation and Benefits, Services and other	$123,600,000
Headquarters Managed IT investment	133,104,000
Subtotal, Headquarters Management and Administration	256,704,000
Legal Proceedings	130,181,000
Investigations:	
Domestic Operations	1,195,050,000
International Operations	101,918,000
Subtotal, Investigations	1,296,968,000
Intelligence	50,970,000
Detention and Removal:	
Detention and Removal Operations	1,013,329,000
Transportation and Removal	135,000,000
Fugitive Operations	102,881,000
Institutional Removal Program	93,969,000
Alternatives to Detention	28,497,000
Subtotal, Detention and Removal	1,373,676,000
Total, Salaries and Expenses	3,108,499,000

IMMIGRATION ENFORCEMENT AGENTS

The conferees agree with the House report noting that a vast majority of immigration law violations are under enforced, and that it would be beneficial to significantly enhance the enforcement of civil immigration violations. The conferees therefore include $9,000,000 for 100 Immigration Enforcement Agents (IEAs), who will work under the supervision of ICE special agents and concentrate their efforts on civil and administrative actions, permitting ICE special agents to concentrate their efforts on criminal investigations and longer term cases. The conferees direct the Department to submit a plan for the expanded use of IEAs for these purposes not later than December 1, 2005, and a status report not later than November 1, 2006, on the operation and impact of the increase in IEA positions.

EXPEDITED REMOVAL AND DETENTION SPACE

The conferees are aware ICE expects a bedspace funding shortfall owing to lower Breached Bond funds and increased bedspace costs. The conferees provide $35,000,000 to cover fiscal year 2006 costs associated with ICE initiatives funded in Public Law 109–13, and therefore expect the Department will not divert $32,000,000 provided in that Act for bedspace to annualize personnel costs. The conferees direct the Department to submit quarterly reports on the fee estimates.

The conferees understand the Department has determined expanding the expedited removal program will require a greater proportion of funding for removal and related costs, and therefore relatively less for bedspace. The conferees direct the Department to report within 30 days from enactment of this Act on the total number of beds to be funded in fiscal year 2006, by funding source, and the fiscal year 2006 spend plan for expedited removal. Further, the Department is directed to include bedspace utilization and funding obligations in its regular immigration enforcement reporting to the Committees on Appropriations.

TEXTILE TRANSSHIPMENT ENFORCEMENT

Section 352 of the Trade Act of 2002 authorizes funding for Customs Service textile transshipment enforcement, and specifies how the funds be spent. The conferees include $4,750,000 to continue this effort and direct ICE to report not later than February 10, 2006, on obligating these funds, as well as those appropriated in fiscal years 2004 and 2005. The report should include staffing levels in fiscal years 2003–2006, differentiated by position, as authorized in section 352 of the Trade Act of 2002, and include a five-year enforcement plan.

IMMIGRATION ENFORCEMENT AND DETENTION STATISTICS

The conferees concur with the immigration enforcement and detention reporting requirements identified in the House and Senate reports, and direct ICE to submit them on a quarterly basis beginning February 10, 2006.

STATE AND LOCAL SUPPORT FOR IMMIGRATION ENFORCEMENT

The conferees support the ''287(g) program'' to cross-designate State and local law enforcement officers to perform limited immigration enforcement functions, and provide $5,000,000 in support of this program, including training participants, as authorized. The conferees encourage the Department to be more proactive in encouraging State and local governments to participate in this program. The conferees fully support the 287(g) program and view it as a powerful force multiplier to better enforce immigration laws and, consequently, to better secure the homeland.

LEGAL ORIENTATION PROGRAM

The conferees include $2,000,000 for the Legal Orientation Program, to be transferred to the U.S. Department of Justice, Executive Office for Immigration Review (EOIR). The Office of Management and Budget is directed to include future funding for this program in funding requests for EOIR.

FEDERAL PROTECTIVE SERVICE

The conferees agree to provide $487,000,000 as proposed by both the House and the Senate.

AUTOMATION MODERNIZATION

The conferees agree to provide $40,150,000 as proposed by the House instead of $50,150,000 as proposed by the Senate. These funds may not be obligated until the Committees on Appropriations receive and approve an expenditure plan, which includes a

requirement for an independent verification and validation.

CONSTRUCTION

The conferees provide $26,546,000 as proposed by both the House and Senate.

TRANSPORTATION SECURITY ADMINISTRATION

AVIATION SECURITY

The conferees agree to provide $4,607,386,000 instead of $4,591,612,000 as proposed by the House and $4,452,318,000 as proposed by the Senate. In addition to the amounts appropriated, a mandatory appropriation of $250,000,000 is available to support the Aviation Security Capital Fund. Bill language is also included to reflect the collection of $1,990,000,000 from aviation user fees, as authorized. The following table specifies funding by budget activity:

Screening Workforce:	
Privatized screening	$139,654,000
Passenger screeners—personnel, compensation and benefits	1,520,000,000
Baggage screeners—personnel, compensation, and benefits	884,000,000
Subtotal, Screener Workforce	2,543,654,000
Screener Training and Other:	
Screener training	88,004,000
Passenger screener—other	23,752,000
Checked baggage screener—other	118,591,000
Tort claims	4,000,000
Representation funds	3,000
Model workplace	2,400,000
Hazardous materials disposal	9,800,000
Subtotal, Screener Training and Other	246,550,000
Human Resource Services	207,234,000
Checkpoint Support	165,000,000
Explosive Detection Systems:	
EDS/ETD purchase	175,000,000
EDS/ETD installation	45,000,000
EDS/ETD maintenance and utilities	200,000,000
Operation integration	23,000,000
Subtotal, Explosive Detection Systems	443,000,000
Total, Screening Operations	3,605,438,000
Aviation Direction and Enforcement:	
Aviation regulation and other enforcement	222,416,000
Airport management, information technology and support	686,032,000
Federal flight deck officer and flight crew training	30,500,000
Air cargo	55,000,000
Foreign and domestic repair stations	3,000,000
Airport perimeter security	5,000,000
Subtotal, Aviation Direction and Enforcement	1,001,948,000
Total, Aviation Security	4,607,386,000

STAFFING LEVELS

The conferees agree to continue longstanding bill language that caps the full-time equivalent screener workforce at 45,000 as proposed by the House. The conferees expect the Transportation Security Administration (TSA) to have no more than 45,000 full-time equivalent screeners by the end of fiscal year 2006. The conferees recognize TSA may need to realign its workforce throughout the year due to attrition or advances in detection technologies. TSA has the flexibility to hire screeners during the fiscal year at those airports where additional or replacement screeners are necessary to maintain aviation security and customer service.

PRIVATIZED SCREENING AIRPORTS

The conferees agree to provide $139,654,000 as proposed by the House instead of $146,151,000 as proposed by the Senate. If additional airports are not interested in privatization, or airports currently under this program decide to begin using federal screeners resulting in the need for less funding in fiscal year 2006 to support the current privatized screening airports, TSA is directed to notify the Committees on Appropriations ten days prior to these changes occurring. After that time period has expired, TSA shall adjust its program, project, and activity line items to account for changes in third party private screening contracts and screener personnel, compensation and benefits to reflect the award of contracts under the screening partnership program (SPP).

PASSENGER AND BAGGAGE SCREENERS, PERSONNEL, COMPENSATION AND BENEFITS

The conferees agree to provide $1,520,000,000 for passenger screening and $884,000,000 for baggage screening activities for both federal screeners as well as any contracts awarded under SPP for all airports other than the six current privatized screening airports. The conferees agree TSA needs the flexibility to manage the SPP without the need for reprogramming actions for each individual contract and direct TSA to provide the Committees on Appropriations with advance notice ten days before an announcement is made an airport has been selected under SPP or if an airport has decided to begin using federal screeners. At the time the contract is awarded, TSA shall notify the Committees and adjust its program, project, and activity line items to account for changes in third party private screening contracts and screener personnel, compensation and benefits to reflect the award of contracts under SPP.

RONALD REAGAN WASHINGTON NATIONAL AIRPORT

The conferees agree to include bill language that provides reimbursement for security services and related equipment and supplies in support of general aviation access to Ronald Reagan Washington National Airport as proposed by the Senate. These reimbursements shall be credited to the ''Aviation Security'' appropriation and be available until expended for only those purposes.

PASSENGER PROCESSING TIMES

Several airports are experiencing unusually large peak volumes associated with international, charter, and scheduled service. Many domestic travelers arriving at the same airport concourse as international flyers are often held up from proceeding to their final destinations because of slow processing times for these international visitors. The conferees direct TSA, in cooperation with Customs and Border Protection, to examine these unique situations, find appropriate solutions, and report back to the Committees on Appropriations no later than February 10, 2006.

CHECKPOINT SUPPORT

The conferees agree to provide $165,000,000 instead of $157,461,000 as proposed by the House and $172,461,000 as proposed by the Senate. This funding should be used to accelerate the testing, procurement, installation, and deployment of new checkpoint technologies. TSA should test these new technologies and equipment at airports using both federal and non-federal screeners. TSA shall submit the report originally requested in fiscal year 2005 on testing and deploying emerging technologies to screen passengers and carry-on baggage to the Committees on Appropriations as expeditiously as possible.

STANDARDS FOR CHECKPOINT TECHNOLOGIES

The conferees recommend TSA work with the National Institute of Standards and Technology to develop standards for checkpoint technologies, as discussed in the Senate report.

EXPLOSIVE DETECTION SYSTEMS INSTALLATION

The conferees agree to provide a total of $295,000,000 for explosive detection systems (EDS) installation, including $250,000,000 in mandatory funding from the Aviation Security Capital Fund and $45,000,000 in this Act. This funding is sufficient to fulfill the federal commitment for the eight Letters of Intent and to install next-generation EDS machines at airports nationwide. The conferees have modified bill language proposed by the Senate clarifying the federal government's cost under a Letter of Intent shall be 75 percent for any medium and large hub airport and 90 percent for any other airports. The conferees also include bill language to permit the Secretary to distribute this funding to enhance aviation security and fulfill the federal commitment to Letters of Intent. The conferees encourage TSA to pursue innovative financing solutions to improve the baggage screening process, as discussed in the House report.

EXPLOSIVE DETECTION SYSTEMS PROCUREMENT

The conferees agree to provide $175,000,000 instead of $170,000,000 as proposed by the House and $180,000,000 as proposed by the Senate. Of these funds, $45,000,000 shall be made available to procure next-generation explosive detection systems, including in-line systems, which have been tested, certified, and piloted. The conferees expect these new systems to replace explosive trace detection systems as much as possible as they are considerably less costly to operate.

EXPLOSIVE DETECTION SYSTEMS MAINTENANCE COSTS

The conferees are concerned about the skyrocketing costs of maintaining explosive detection systems and direct the Government Accountability Office to report by April 2006 on the reasons for past cost increases, including TSA contracting practices. This report is to recommend actions TSA might take to control these costs in the future.

REMOTE BAGGAGE SCREENING

The conferees are aware of TSA's participation with airports and airlines in pilots at various airports around the country to evaluate off-site baggage check-in models. The conferees encourage TSA to widely test remote baggage screening, including coupling off-site check in with off-site screening within the airport grounds at secure sort facilities before the baggage is introduced into the terminal and other critical airport infrastructure.

MULTI-COMPARTMENTAL BINS

The conferees direct TSA to develop a plan to research, test, and potentially implement multi-compartmental bins to screen passenger belongings at security checkpoints.

SCREENING EXEMPTIONS

The conferees agree to retain bill language proposed by the Senate that does not allow heads of federal agencies and commissions to be exempt from passenger and baggage screening.

AVIATION REGULATION AND ENFORCEMENT

The conferees agree to provide $222,416,000 as proposed by the House instead of $230,000,000 as proposed by the Senate.

AVIATION MANAGEMENT, INFORMATION TECHNOLOGY AND SUPPORT

The conferees agree to provide $686,032,000 instead of $655,597,000 as proposed by the House and $748,370,000 as proposed by the Senate. Within the funds provided, $243,662,000 is for management and support staff and $442,370,000 is for information technology.

FEDERAL FLIGHT DECK OFFICER AND FLIGHT CREW TRAINING

The conferees agree to provide $30,500,000 instead of $29,000,000 as proposed by the House and $32,000,000 as proposed by the Senate. Within the funds provided, $27,000,000 is for federal flight deck officer training and $3,500,000 is for voluntary flight crew training.

AIR CARGO

The conferees agree to provide $55,000,000 instead of $60,000,000 as proposed by the House and $50,000,000 as proposed by the Senate. Within the funds provided, $10,000,000 is for hiring 100 additional regulatory inspectors and associated travel costs, and $5,000,000 is to enhance the automated indirect air carrier maintenance system and known shipper data base, as well as for security threat assessments and pending air cargo rulemaking activities.

In addition to the funds provided to TSA for air cargo, the conferees provide $30,000,000 to the Science and Technology (S&T) Directorate to conduct three cargo screening pilot programs testing different concepts of operation. TSA is to cooperate with S&T on this effort.

The conferees direct TSA to work with other DHS components to develop technologies that will move TSA forward to achieving 100–percent screening of air cargo on passenger aircraft.

GENERAL AVIATION

The conferees concur with the House report supporting the Airport Watch program.

AIRPORT PERIMETER SECURITY

The conferees agree to provide $5,000,000 for airport perimeter security pilots. While funding has been provided for this work in the past, the conferees are aware of a variety of innovative technologies that may reduce security weaknesses and vulnerabilities in airports throughout the United States. This funding should be awarded competitively.

SURFACE TRANSPORTATION SECURITY

The conferees agree to provide $36,000,000 as proposed by the House and the Senate. Funding is provided as follows:

Enterprise staff	$24,000,000
Hazardous materials truck tracking and training	4,000,000
Rail inspectors and canines	8,000,000
Total	36,000,000

RAIL SECURITY INSPECTORS AND CANINES

The conferees are very disappointed with TSA's reluctance to quickly hire rail inspectors and deploy canine units at transit systems nationwide. Although these activities were funded in fiscal year 2005, TSA does not have a full contingent of rail inspectors on board and only announced the deployment of canine teams on September 27, 2005. This is unacceptable. The conferees direct TSA to report to the Committees on Appropriations no later than February 10, 2006, on the deployment of the 100 rail security inspectors and canine teams funded in fiscal year 2005 and any new inspectors or canine teams planned for fiscal year 2006.

TRANSPORTATION VETTING AND CREDENTIALING

The conferees agree to provide a direct appropriation of $74,996,000 as proposed by the Senate instead of $84,294,000 as proposed by the House. In addition, the conferees anticipate TSA will collect $180,000,000 in fees. Funding is provided as follows:

Direct Appropriations:	
Secure flight	$56,696,000
Crew vetting	13,300,000
Screening administration and operations	5,000,000
Total, direct appropriations	74,996,000
Fee Collections:	
Registered traveler	20,000,000
Transportation worker identification credential	100,000,000
Hazardous materials	50,000,000
Alien flight school (by transfer from DOJ)	10,000,000
Total, fee collections	180,000,000

SECURE FLIGHT

The conferees agree to provide $56,696,000 as proposed by the Senate instead of $65,994,000 as proposed by the House. TSA has failed to provide a fully justified cost estimate for this program for fiscal year 2006 or achieve initial operational capability with two airlines on August 19, 2005, as originally planned. At this time, TSA does not have a revised schedule and milestones. The conferees have reduced funding for Secure Flight accordingly.

The conferees support the additional layer of aviation security that will be provided through the Secure Flight program. However, delays in obtaining Passenger Name Record data from air carriers needed for testing have postponed initial operating capability of the system. The conferees encourage TSA to commence rulemaking proceedings, and, if necessary, issue a security directive at the earliest possible date to require air carriers to release data necessary for operational tests expected to commence shortly.

The conferees agree to include and modify a general provision (section 518) which directs the Government Accountability Office (GAO) to continue to evaluate DHS and TSA actions to meet the ten elements listed in section 522 of Public Law 108–334 and to report to the Committees on Appropriations either incrementally or when all elements have been satisfied. The provision also prohibits the use of commercial data.

On July 22, 2005, GAO reported TSA did not adequately disclose the use of personal information during Secure Flight testing, violating the Privacy Notice. The conferees are concerned with the recent GAO findings, giving further credence for GAO to continue reviewing the Secure Flight program.

TRANSPORTATION WORKER IDENTIFICATION CREDENTIAL

The conferees agree to include a general provision (section 526) directing the Department to develop a personalization system that is centralized and that uses an existing government card production facility for these purposes as proposed by the House, consistent with direction issued in previous years. TSA may not move into the next phase of production until the Committees on Appropriations have been fully briefed on the results of the prototype phase and agree the program should move forward. Because of the deep interest in this program, beginning

on January 1, 2006, and quarterly thereafter, TSA shall submit reports on the progress of meeting the goals established for the Transportation Worker Identification Credential (TWIC) program.

SCREENING ADMINISTRATION AND OPERATIONS

The conferees agree to provide $5,000,000 for screening administration and operations as proposed by both the House and the Senate. The conferees direct that none of the funds may be used to augment the Secure Flight program and expect funds to be used to support other transportation vetting and credentialing programs that are user fee funded, such as TWIC, alien flight school, and hazardous materials. The conferees are aware these fee-funded programs have carry-over balances from previous fiscal years that may be used to augment administrative and operational needs.

TRANSPORTATION SECURITY SUPPORT

The conferees agree to provide $510,483,000 instead of $541,008,000 as proposed by the House and $491,873,000 as proposed by the Senate. Funding is provided as follows:

Intelligence	$21,000,000
Headquarters Administration	279,391,000
Information Technology	210,092,000
Total, Transportation Security Support	510,483,000

SPENDING AND DEPLOYMENT PLANS

The conferees agree to include bill language to require TSA to submit 60 days from the date of enactment of this Act a plan to the Committees on Appropriations detailing: the optimal deployment plan for explosive detection equipment at the Nation's airports on a priority basis, either in-line or to replace explosive trace detection machines; and an expenditure plan for explosive detection systems procurement and installation on an airport-by-airport basis for fiscal year 2006. The conferees have requested this information for the past two years in report language and TSA has repeatedly ignored these requests. The conferees include bill language withholding $5,000,000 from obligation until this plan is received.

FEDERAL AIR MARSHALS

The Secretary's organizational restructuring plan submitted on July 13, 2005, recommended moving the appropriation for the Federal Air Marshals (FAMs) from Immigration and Customs Enforcement to TSA. The conferees concur with this recommendation and agree to provide $686,200,000 for FAMs instead of $698,860,000 as proposed by the House and $678,994,000 as proposed by the Senate. Within this total, $613,400,000 is for management and administrative expenses, $70,800,000 is for travel and training, and $2,000,000 is to implement the air-to-ground communications system. Funding is available for one year as proposed by the Senate.

STAFFING

The conferees have fully funded the new staff requested; however, funding has been provided for half a year, consistent with actions taken elsewhere in the Department because of the time it takes to hire new employees. A classified report on the status of hiring and training new Federal Air Marshals shall be submitted to the Committees on Appropriations no later than February 10, 2006.

AIRPORT LAW ENFORCEMENT

The conferees direct FAMs to submit a report, in conjunction with the fiscal year 2007 budget, that details a proposal to expand its mission beyond the aircraft and enter the airport security arena, including surveillance in the airport environment and airport-related investigations. The report should elaborate on these expanded responsibilities and the potential impact to FAMs mission, to include: the types of investigations that would be conducted in airports; the potential tangible benefits of FAMs conducting surveillance in an airport; whether this expansion would merit and require the conversion of air marshals to 1811 status; a timeframe for implementation; statistical distribution of workload hours between airport and aircraft missions; additional FTE required; additional costs associated with an enhanced airport mission; additional training requirements; and how an expanded FAMs mission would interrelate with the numerous law enforcement agencies that are currently conducting airport security operations. FAMs shall not move forward with this proposal until the report has been submitted and reviewed by the Committees on Appropriations.

AIR-TO-GROUND COMMUNICATIONS

The conferees agree to provide $2,000,000 for the air-to-ground communications program. The conferees are aware of FAMs working with Science and Technology (S&T), the Federal Communications Commission, and the Federal Aviation Administration to implement an airborne communications system in 2006. The conferees consider this a critical security program and direct FAMs, in conjunction with S&T, to brief the Committees on Appropriations quarterly on its progress.

UNITED STATES COAST GUARD

OPERATING EXPENSES

(INCLUDING RESCISSION OF FUNDS)

The conferees agree to provide $5,492,331,000 instead of $5,500,000,000 as proposed by the House and $5,476,046,000 as proposed by the Senate. Within this amount, $1,200,000,000 is available for defense-related activities as proposed by both the House and the Senate. Further, within this total, $15,450,000 is provided for command, control, communications, computer intelligence, surveillance and reconnaissance (C4ISR) follow-on costs; $10,000,000 is provided as an increase for the Area Security Maritime Exercise Program; $12,000,000 is provided as an increase to implement the May 13, 2005, decision by the Commandant to restructure the Mariner Licensing and Documentation Program; and an additional $4,000,000 above the amounts enacted in fiscal year 2005 is included for C–130J operations. No funding is provided for radiological/nuclear detection and one-time reinvestment costs due to inadequate budget justifications for these activities. The conferees agree to rescind $15,103,569 in unobligated balances from funds provided for port security assessments at tier one ports due to successful completion of this program. Funding for operating expenses shall be allocated as follows:

Military Pay and Related Costs:	
Military pay and allowances	$2,315,270,000
Military health care	580,647,000
Permanent change of station	108,901,000
Subtotal, Military Pay and Related Costs	3,004,818,000
Civilian Pay and Benefits	531,497,000
Training and Recruiting:	
Training and Education	83,554,000
Recruiting	93,576,000
Subtotal, Training and Recruiting	177,130,000
Operating Funds and Unit Level Maintenance:	
Atlantic Command	169,188,000
Pacific Command	177,894,000
1st District	47,166,000
7th District	58,076,000
8th District	39,134,000
9th District	28,431,000
13th District	20,238,000
14th District	14,575,000
17th District	23,951,000
Headquarters directorates	257,550,000
Headquarters managed units	120,000,000
Other activities	767,000
Subtotal, Operating Funds and Unit Level Maintenance	956,970,000
Centrally Managed accounts	185,000,000
Intermediate and Depot Level Maintenance:	
Aeronautical maintenance	230,636,000
Electronic maintenance	101,408,000
Civil/ocean engineering/short facilities maintenance	160,024,000
Vessel maintenance	144,848,000

Subtotal, Intermediate and Depot Level Maintenance	636,916,000
Total, Operating Expenses	5,492,331,000
Rescission, Port Security Assessments (P.L. 108–11)	−15,103,569
Total, Operating Expenses	5,477,227,431

RESPONSIVENESS TO CONGRESS

The conferees are disappointed and frustrated with the Coast Guard's poor responsiveness to Committee direction. For this reason, the conferees note reductions to the budget request for operating expenses are directed at the Coast Guard's senior management and not its field units. The conferees recognize the sacrifices of Coast Guard field personnel and have provided the full amount requested in the fiscal year 2006 budget request to support operational units.

POLAR ICEBREAKING

Both the House and Senate approved the transfer of $47,500,000 in polar icebreaking funding from the Coast Guard to the National Science Foundation (NSF) as requested in the budget. The conferees encourage the Coast Guard, NSF, and the Executive Office of the President to finalize a long-term strategy for polar icebreaking. The conferees direct the Coast Guard to pursue a sustainable cost sharing agreement with the NSF for unanticipated and extraordinary maintenance of the polar icebreakers.

OCCUPATIONAL SAFETY AND HEALTH RISKS

The conferees understand the Coast Guard is currently evaluating technologies to determine how to minimize occupational safety and health risks to Coast Guard personnel. Due to concerns about increasing burdens on Coast Guard personnel, the conferees direct the Coast Guard to report on the status of such evaluations to the Committees on Appropriations no later than 60 days from the date of enactment of this Act.

ENVIRONMENTAL COMPLIANCE AND RESTORATION

The conferees agree to provide $12,000,000 as proposed by both the House and the Senate.

RESERVE TRAINING

The conferees agree to provide $119,000,000 as proposed by both the House and the Senate.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

The conferees agree to provide $1,141,800,000 instead of $798,152,000 as proposed by the House and $1,141,802,000 as proposed by the Senate. Funding is provided as follows:

Vessels and Critical Infrastructure:	
Response boat medium	$18,500,000
Vessels and Critical Infrastructure	18,500,000
Aircraft:	
Covert Surveillance Aircraft	10,000,000
Armed helicopter equipment	10,000,000
C–130J Missionization	—
Subtotal, Aircraft	20,000,000
Integrated Deepwater System:	
Aircraft:	
Maritime patrol aircraft	68,000,000
Unmanned Aerial Vehicles (UAVs)	40,000,000
HH–60 sustainment projects	37,000,000
HC–130 sustainment projects	11,000,000
HH–65 re-engining	133,100,000
Subtotal, Aircraft	289,100,000
Surface Ships:	
National security cutter, construction	368,000,000
Offshore patrol cutter, development	108,000,000
Fast Response Cutter, long-lead items and development	7,500,000
Short Range Prosecutor program and IDS small boats	700,000
Medium Endurance Cutter program and legacy surface ship sustainment	25,000,000
Subtotal, Surface Ships	509,200,000
C4ISR	44,000,000
Logistics	18,800,000
System engineering and management	37,000,000
Government program management	35,000,000
Subtotal, Integrated Deepwater System	933,100,000
Other Equipment:	
Rescue 21	41,000,000
Automatic Identification System	24,000,000
High frequency recap	—
Subtotal, Other Equipment	65,000,000
Shore Facilities and Aids to Navigation:	
Renovate USCGA Chase Hall barracks	15,000,000
Replace multi-mission building-Group LIS	10,000,000
Construct breakwater-Station Neah Bay	2,800,000
Waterway aids to navigation infrastructure	3,900,000
Subtotal, Shore Facilities and Aids to Navigation	31,700,000
Personnel and Related Support:	
Direct personnel costs	73,000,000
AC&I core	500,000
Subtotal, Personnel and Related Support	73,500,000
TOTAL	1,141,800,000

DEEPWATER

The conferees agree to provide $933,100,000 for the Integrated Deepwater System instead of $500,000,000 as proposed by the House and $988,600,000 as proposed by the Senate. The conferees are troubled by the progress of the Deepwater program. In response to the post-9/11 rebaselining requirements set forth within Public Law 108–334, the Coast Guard responded by missing deadlines, submitting inadequate information, and taking what was a straightforward acquisition program and turning it into a confusing plan that did not sufficiently explain how the Coast Guard intends to manage what is now a $24,000,000,000, 25-year effort. The conferees are supportive of Deepwater and want to see tangible progress in the modernization of the Coast Guard's fleet. However, the conferees are frustrated with the Coast Guard's inadequate justification and poor planning for Deepwater resources.

The conferees include a new provision directing the Coast Guard to submit a review of the Revised Deepwater Implementation Plan in conjunction with the President's fiscal year 2007 budget request. This report shall include: a detailed explanation of any changes to the plan for fiscal year 2007; a detailed, annual performance comparison of Deepwater assets to pre-Deepwater legacy assets in terms of operations and maintenance costs, operational availability (including mean time between failure and mean time to restore), mission performance, and crewing; a status report of legacy assets, including modernization progress, operational availability, and the projected, remaining service life of each class of legacy Deepwater asset; a comprehensive explanation of how the Coast Guard is accounting for the costs of legacy assets in the Deepwater program;

an explanation of why many assets that are elements of the Integrated Deepwater System are not accounted for within Deepwater's appropriation (such as the missionization of the C–130Js, the 179-foot Cyclone class cutters, and the airborne use of force outfitting of the HH60s and HH65s); a description of the competitive process conducted in all contracts and subcontracts exceeding $5,000,000; a description of how the Coast Guard is planning for the human resource needs of Deepwater assets including rotational crewing for each asset utilizing such crewing and qualification training for commanding officers and petty officers in charge of Deepwater patrol boats; and the earned value management system gold card data, including data for all the factors in this system, for each asset being procured under Deepwater, including C4ISR and C–130J missionization.

The conferees acknowledge the Coast Guard's assertion that the accuracy of a Revised Deepwater Implementation Plan beyond five years is based upon numerous, unpredictable variables such as national security priorities and resource constraints. Therefore, the conferees believe the acquisition schedule for the duration of the plan will likely undergo significant modifications in five-year increments. The Coast Guard has also pointed to five-year increments, beginning in 2011, as benchmarks for measuring the performance of Deepwater assets as an entire system of systems, vice a fleet of non-integrated assets. For these reasons, the conferees have included a new provision directing the Coast Guard to submit a comprehensive review of the Revised Deepwater Implementation Plan every five years beginning in fiscal year 2011. This plan shall include a complete projection of the acquisition costs and schedule for the duration of the plan through fiscal year 2027.

As Deepwater progresses, the conferees recognize there must be a methodical transition between the acquisition phase of the program and the integration of new assets into Coast Guard operations. The conferees believe diligent management of this transition is central to ensuring the effectiveness of the Deepwater program as well as the operational readiness of the Coast Guard. To address this concern, the conferees direct the Coast Guard to conduct an operational gap analysis for all Deepwater assets and provide an action plan on how the revised Deepwater plan addresses the shortfalls between current operational capabilities and operational requirements, as specified in the revised, post-9/11 Mission Needs Statement approved on January 24, 2005. This report should apply advanced analytical methods for forecasting future needs, as required in the Senate report, and should be submitted concurrently with the Coast Guard's fiscal year 2007 budget request.

PATROL BOATS

The conferees are very concerned about the availability and performance of the Coast Guard's patrol boat fleet. The 110-foot Island Class patrol boats are currently experiencing major maintenance problems as well as technological obsolescence and the planned patrol boat replacement under Deepwater—the Fast Response Cutter (FRC)—is several years away from sea trials and production. The Coast Guard's patrol boat needs are further stressed given the termination of the 110-to-123 conversion program that was intended to bridge the gap between the phase-out of the 110 and the deployment of the FRC. To address this critical issue and looming shortfall in patrol boat mission hours, the conferees agree to include a provision (section 527) rescinding unobligated funds in the amount of $78,630,689 appropriated for 110-to-123 conversions in fiscal years 2003, 2004, and 2005 and re-appropriating the funds for the service life extension of Island Class patrol boats and the design, production, and long lead materials of the FRC. The conferees direct the Coast Guard to provide a patrol boat availability report to the Committees on Appropriations no later than February 10, 2006, which includes: an expenditure plan for the 110 service life extension program; a detailed explanation of the FRC's accelerated design and production that includes the application of the funds provided by this Act; and a mission hour and operational availability report for each 110 foot and 123 foot patrol boat in service.

COVERT MANNED SURVEILLANCE AIRCRAFT

The conferees do not include a rescission of $13,999,000 in prior appropriations for the purchase of covert manned surveillance aircraft as proposed by the Senate. The conferees direct the Coast Guard to move forward with this procurement and agree to provide $10,000,000 for sensor procurement and installation as proposed by the House.

RESCUE 21

Due to high unobligated balances and extensive program delays, the conferees agree to provide $41,000,000 for Rescue 21 instead of $91,000,000 as proposed by the House and $81,000,000 as proposed by the Senate.

ALTERATION OF BRIDGES

The conferees agree to provide $15,000,000 as proposed by both the House and Senate. Within this total, funds shall be allocated as follows:

Chelsea Street Bridge in Chelsea, Massachusetts	$2,500,000
Canadian Pacific Railroad Bridge in La Crosse, Wisconsin	2,000,000
Fourteen Mile Bridge, Mobile, Alabama	6,000,000
Galveston Railway Bridge, Galveston, Texas	2,500,000
Burlington Northern Santa Fe Bridge in Burlington, Iowa	1,000,000
Elgin, Joliet, and Eastern Railway Company Bridge, Morris, Illinois	1,000,000
Total	15,000,000

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

The conferees agree to provide $17,750,000 instead of $18,500,000 as proposed by the Senate. The House proposed $17,000,000 within the Science and Technology Directorate. The conferees expect the Commandant of the Coast Guard to continue to coordinate with the Under Secretary for Science and Technology on research and development activities.

RETIRED PAY

The conferees agree to provide $1,014,080,000 as proposed by both the House and the Senate.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

The conferees agree to provide $1,208,310,000 instead of $1,228,981,000 as proposed by the House and $1,188,638,000 as proposed by the Senate. This includes: $2,500,000, to remain available until September 30, 2007, for Secret Service costs related to National Special Security Events; $39,600,000 to support investigations of electronic crimes; and $7,889,000 for activities relating to the National Center for Missing and Exploited Children, including $2,389,000 for forensic support. Funds shall be allocated as follows:

Protection:	
Protection of persons and facilities	$576,316,000
National Special Security Event Fund	2,500,000
Protective intelligence activities	56,215,000
White House mail screening	16,365,000
Subtotal, Protection	651,396,000
Field operations:	
Domestic field operations	238,888,000
International field office administration, operations and training	20,968,000
Electronic crimes special agent program and electronic crimes task forces	39,600,000
Subtotal, Field operations	299,456,000
Administration:	
Headquarters, management and administration	203,232,000
National Center for Missing and Exploited Children	7,889,000
Subtotal, Administration	211,121,000
Training:	
Rowley Training Center	46,337,000
Total, Salaries and Expenses	1,208,310,000

NATIONAL SPECIAL SECURITY EVENTS

The conferees agree to provide $2,500,000 for the costs associated with National Special Security Events (NSSEs), instead of $10,000,000 as proposed by the House and no funds as proposed by the Senate. When combined with an unobligated balance of $2,329,000 from fiscal year 2005 appropriations, a total of $4,829,000 is available for

NSSEs; funds appropriated in this Act for this purpose are made available through September 30, 2007. The conferees are aware of additional funds available through the Counterterrorism Fund, which may be made available for this purpose. The conferees are disappointed with the Secret Service's lack of budgetary planning for the costs associated with security operations for NSSEs. Despite the considerable growth in size, complexity, and cost of NSSEs since their inception, the Secret Service has not effectively managed the resource impact of these events. The conferees prohibit the obligation of funds provided under this heading until the Committees on Appropriations receive a current NSSE budget model, as described in the House report.

WORKLOAD REBALANCING

The conferees note the unacceptably high workload of personnel that has resulted from the significant increase in the scope of the Secret Service's dual mission. An average overtime rate of 80 hours per special agent per month has arisen from a constantly evolving, post-9/11 threat environment; a three-fold increase in the number of protectees since 9/11; proliferation of identity theft and electronic crime; the occurrence of increasingly complex NSSEs; and support of Departmental missions such as critical infrastructure protection and cyber security. The conferees believe current workload conditions are unsustainable and direct the Secret Service to submit a workload rebalancing report as described within the House report no later than February 10, 2006.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

The conferees agree to provide $3,699,000 as proposed by both the House and Senate.

TITLE III—PREPAREDNESS AND RECOVERY

PREPAREDNESS

MANAGEMENT AND ADMINISTRATION

The conferees agree to provide $16,079,000 for management and administration of the Preparedness Directorate. Included in this amount is $13,187,000 for the Office of the Under Secretary for Preparedness; $2,000,000 for the Office of the Chief Medical Officer, as proposed in the Secretary's organizational restructuring plan submitted on July 13, 2005; and $892,000 for the Office of National Capital Region Coordination, including half year funding for two new staff. The conferees encourage the Office of National Capital Region Coordination to detail these personnel to the Homeland Security Operations Center if appropriate and necessary.

The conferees establish this new account in response to the Secretary's organizational restructuring plan submitted on July 13, 2005, and include resources previously provided under the Office of the Under Secretary for Information Analysis and Infrastructure Protection (IAIP); the Office of the Under Secretary for Border and Transportation Security; the Office of State and Local Government Coordination and Preparedness; and the Office of National Capital Region Coordination previously funded in the Office of the Secretary and Executive Management.

The conferees understand the newly created Preparedness Directorate will assess and prioritize policies and operations to enhance preparedness for a natural disaster or terrorist attack. The conferees direct this Directorate to work with the Director of Federal Emergency Management Agency to continue an all-hazard approach for preparation, response and recovery to any type of disaster.

OFFICE FOR DOMESTIC PREPAREDNESS

SALARIES AND EXPENSES

The conferees agree to provide $5,000,000 for Office for Domestic Preparedness (ODP) salaries and expenses.

STATE AND LOCAL PROGRAMS

The conferees agree to provide $2,501,300,000 instead of $2,831,400,000 as proposed by the House and $2,714,300,000 as proposed by the Senate. State and Local Programs funding is allocated as follows:

State Formula Grants:	
State Homeland Security Grant Program	$550,000,000
Law Enforcement Terrorism Prevention	400,000,000
Subtotal, State Formula Grants	950,000,000
Discretionary Grants:	
High-Threat, High-Density Urban Area	765,000,000
Rail and Transit Security	150,000,000
Port Security	175,000,000
Buffer Zone Protection Plan	50,000,000
Intercity Bus Security	10,000,000
Trucking Security	5,000,000
Subtotal, Discretionary Grants	1,155,000,000
Commercial Equipment Direct Assistance Program	50,000,000
National Programs:	
National Domestic Preparedness Consortium	145,000,000
National Exercise Program	52,000,000
Metropolitan Medical Response System	30,000,000
Technical Assistance	20,000,000
Demonstration Training Grants	30,000,000
Continuing Training Grants	25,000,000
Citizen Corps	20,000,000
Evaluations and Assessments	14,300,000
Rural Domestic Preparedness Consortium	10,000,000
Subtotal, National Programs	346,300,000
Total, State and Local Programs	2,501,300,000

For purposes of eligibility for funds under this heading, any county, city, village, town, district, borough, parish, port authority, transit authority, intercity rail provider, commuter rail system, freight rail provider, water district, regional planning commission, council of government, Indian tribe with jurisdiction over Indian country, authorized tribal organization, Alaska Native village, independent authority, special district, or other political subdivision of any state shall constitute a ''local unit of government.''

The conferees expect ODP to continue all current overtime reimbursement practices. The conferees continue bill language prohibiting the use of funds for construction, except for Port Security, Rail and Transit Security, and the Buffer Zone Protection Plan grants. Bill language is included, however, to allow State Homeland Security Grant Program (SHSGP), Law Enforcement Terrorism Prevention Program (LETPP), and High-Threat, High-Density Urban Area grants to be used for minor perimeter security projects and minor construction or renovation of necessary guard facilities, fencing, and related efforts, not to exceed $1,000,000 as deemed necessary by the Secretary. The conferees further agree that the erection of communication towers, which are included in a jurisdiction's interoperable communications plan, does not constitute construction for the purposes of this Act.

In addition, the conferees include bill language requiring the Government Accountability Office (GAO) to review the validity of the threat and risk factors, and the application of those factors in the allocation of funds provided to ODP, and to report to the Committees on Appropriations by November 17, 2005, on the results of this review. The Department is required to provide GAO with the necessary information within seven days of enactment of this Act to ensure that this review does not impact the allocation of grants to state and local entities. Further, the conferees direct GAO to review the validity of the threat and risk factors used to allocate discretionary grants, including a project-by-project analysis of grants to nonprofit organizations, in fiscal years 2003, 2004, and 2005, and report to the Committees on Appropriations by May 5, 2006, on the results of this review.

The conferees are concerned with the length of time, some in excess of three years, which certain State and local jurisdictions take to fully expend grant funds. The conferees direct the Department to report, by February 10, 2006, on the status of all open grants made prior to fiscal year 2003, including the specific reasons why the grant dollars have not yet been expended. Further, the report should include recommendations on actions being taken to ensure grant funds are spent in a timely manner and include an update on the execution of recommendations of the Task Force on State and Local Homeland Security Funding Report, dated June 2004.

The conferees agree that for State Formula Grants and High-Threat, High-Density Urban Areas grants, application kits shall be made available within 45 days after the start of fiscal year 2006, states shall have 90 days to apply after the grant is announced, and ODP shall act on an application within 90 days of its receipt. The conferees further agree that no less than 80 percent of these funds shall be passed by the state to local units of government within 60 days of the state receiving funds. Not to exceed three

percent of grant funds may be used for administrative expenses.

STATE FORMULA GRANTS

The conferees agree to provide $550,000,000 for SHSGP instead of $800,100,000 as proposed by the House. The Senate proposed $1,538,000,000 for State and Local Assistance, combining SHSGP and High-Threat, High-Density Urban Area Grants into a single account. The conferees also provide $400,000,000 for LETPP as proposed by both the House and Senate.

DISCRETIONARY GRANTS

The conferees agree to provide $1,155,000,000 instead of $1,190,000,000 as proposed by the House. The Senate proposed $1,538,000,000 for State and Local Assistance, combining SHSGP and High-Threat, High-Density Urban Area Grants into a single appropriation, and provided $365,000,000 for Transportation and Infrastructure Grants in a separate appropriation. Of the funds provided, $765,000,000 is made available to the Secretary for discretionary grants to high-threat, high-density urban areas, including $25,000,000 for grants to non-profit organizations determined by the Secretary to be at high risk of international terrorist attacks as proposed by the Senate. The Secretary may not delegate this determination authority and must certify the threat to each grantee three days prior to the announcement of a grant award. The conferees believe the Secretary should consider, as it relates to the grant allocation methodology, tourism destinations that attract tens of millions of visitors annually as potentially high risk targets.

Despite the consolidation of select transportation and infrastructure security grant award functions, Transportation Security Administration (TSA) and Infrastructure Protection and Information Security (IPIS) shall retain operational subject matter expertise of these grants and will be fully engaged in the administration of related grant programs.

PORT SECURITY

The conferees agree to provide $175,000,000 instead of $150,000,000 as proposed by the House and $200,000,000 as proposed by the Senate. The conferees direct ODP to ensure all port security grants are coordinated with the state, local port authority, and the Captain of the Port so all vested parties are aware of grant determinations and that limited resources are maximized. The conferees encourage the Secretary to consider the proximity of existing liquefied natural gas facilities and liquefied petroleum vessels among the risk factors when deciding eligibility for port security grant funding.

RAIL AND TRANSIT SECURITY

The conferees agree to provide $150,000,000 as proposed by the House instead of $100,000,000 as proposed by the Senate. ODP shall continue to work with TSA to develop a robust rail and transit security program and with the Science and Technology Directorate (S&T) on the identification of possible research and design requirements for rail and transit security.

The conferees are concerned by a recent ODP risk assessment that highlights the need for redundant transit operation control abilities in the national capital region to maintain federal government continuity of operations. The conferees direct ODP to submit a report no later than February 10, 2006, on the steps that may be taken to ensure this deficiency is addressed.

COMMERCIAL EQUIPMENT DIRECT ASSISTANCE PROGRAM

The conferees agree to provide $50,000,000 as proposed by both the House and Senate. The conferees concur with both the House and Senate report language on the Commercial Equipment Direct Assistance Program.

The conferees encourage ODP to work with the Department of Defense (DOD) to ensure promising technologies, such as skin decontamination kits currently in use by DOD, are made available on the commercial market for purchase by state and local agencies responsible for homeland security.

NATIONAL DOMESTIC PREPAREDNESS CONSORTIUM

The conferees agree to provide $145,000,000 as proposed by the Senate instead of $125,000,000 as proposed by the House. This funding shall be allocated in accordance with the Senate report.

METROPOLITAN MEDICAL RESPONSE SYSTEM

The conferees agree to provide $30,000,000 instead of $40,000,000 as proposed by the House and $10,000,000 as proposed by the Senate.

TECHNICAL ASSISTANCE

The conferees agree to provide $20,000,000 as proposed by both the House and Senate. The conferees recognize the importance of interoperable communications standards, which are critical to the Department's efforts to improve communications nationally. The conferees direct the Under Secretary for Science and Technology (S&T) to expedite the development of these standards, and coordinate with ODP to ensure ODP's technical assistance program incorporates these standards, as appropriate, and as spelled out in the Memorandum of Agreement between S&T and ODP.

The conferees note there is no existing capability for real-time exchange of information at the regional or interstate levels regarding equipment and supplies inventory, readiness, or the compatibility of equipment. The conferees encourage ODP to review the use of logistic centers to consolidate State and local assets, provide life-cycle management and maintenance of equipment, allow for easy identification and rapid deployment during an incident, and allow for the sharing of inventories across jurisdictions.

DEMONSTRATION TRAINING GRANTS

The conferees agree to provide $30,000,000 as proposed by the Senate instead of $35,000,000 as proposed by the House. The conferees are concerned, while terrorism prevention is a national priority, little is being done to create prevention expertise in our nation's first responders. Without well developed terrorism prevention plans, state and local agencies lack a key piece in the fight against terrorism. The conferees encourage ODP to create a terrorism prevention certificate training program that will enable graduates to help their communities or organizations develop the necessary terrorism prevention plans.

CONTINUING TRAINING GRANTS

The conferees agree to provide $25,000,000 as proposed by the Senate instead of $30,000,000 as proposed by the House.

CITIZEN CORPS

The conferees agree to provide $20,000,000 instead of $40,000,000 as proposed by the House and $25,000,000 as proposed by the Senate. Mobilizing communities and citizens to assist law enforcement in preventing acts of terrorism is as important as preparing communities and citizens to respond to a terrorist incident. The conferees are aware of the work the Citizen Corps has done in partnership with the National Crime Prevention Council (NCPC) in organizing comprehensive community planning. The conferees encourage ODP to continue to emphasize prevention in all of its programs and to work with the NCPC.

RURAL DOMESTIC PREPAREDNESS CONSORTIUM

The conferees agree to provide $10,000,000 as proposed by the House. The Senate included no similar provision. The conferees direct ODP to continue the development of specialized and innovative training curricula for rural first responders and ensure the coordination of such efforts with existing ODP training partners.

INTEROPERABLE COMMUNICATIONS

The conferees concur with the Senate report language regarding interoperable communication implementation plans.

HOMELAND SECURITY PRESIDENTIAL DIRECTIVE 8

The conferees concur with the House report language regarding Homeland Security Presidential Directive 8 implementation; however, ODP shall issue the final National Preparedness Goal no later than December 31, 2005, and complete the National Preparedness Assessment and Reporting System no later than September 30, 2006.

EMERGENCY MEDICAL SERVICES

The conferees are very concerned with the lack of first responder grant funding being provided to the Emergency Medical Services (EMS) community. The conferees direct ODP to require state and local governments to include EMS representatives in planning committees as an equal partner and to facilitate a nationwide EMS needs assessment. The conferees do not mandate that a certain percentage of grant funds be allocated to any one type of first responders. However, the conferees direct ODP to evaluate how much money goes to EMS providers and to require an explanation from any state not providing at least ten percent of its grant funding to EMS providers to better train and equip them to provide critical life-saving assistance in the event of a chemical, biological, radiological, or explosive event.

CATASTROPHIC PLANNING

The conferees note the tragic events in the wake of Hurricane Katrina indicate the importance of preparation and having plans in place to deal with catastrophic events. It is imperative all states and Urban Area Security Initiative grantees ensure there are sufficient resources devoted to putting in place plans for the complete evacuation of residents, including special needs groups in hospitals and nursing homes, or residents without access to transportation, in advance of and after such an event, as well as plans for sustenance of evacuees.

The conferees direct the Secretary to report on the status of catastrophic planning, including mass evacuation planning in all 50 states and the 75 largest urban areas by February 10, 2006. The report should include certifications from each state and urban area as to the exact status of plans for evacuations of entire metropolitan areas in the state and the entire state, the dates such plans were last updated, the date exercises were last conducted using the plans, and plans for sustenance of evacuees.

ELIGIBILITY

The conferees urge the Department to work with state and local governments to ensure regional authorities, such as port, transit, or tribal authorities are given due consideration in the distribution of State Formula Grants.

RAPID DECONTAMINATION PREPAREDNESS

The conferees are concerned with the lack of planning and preparation for a rapid decontamination response in the event of a large scale biological or chemical attack. The conferees direct ODP, in consultation with S&T, the Environmental Protection Agency, and other relevant federal agencies,

to report, not later than February 10, 2006, on the feasibility and plan for establishing a regionally based, pre-positioned rapid response capability for the decontamination of biological and chemical agents based on technologies that meet the decontamination standards for those agents.

EFFECTIVENESS SURVEY

The conferees direct the Secretary to comply with section 522 of the Senate bill with regard to a survey of state and local government emergency officials.

FIREFIGHTER ASSISTANCE GRANTS

The conferees agree to provide $655,000,000 instead of $650,000,000 as proposed by the House and $665,000,000 as proposed by the Senate. Of this amount, $110,000,000 shall be for firefighter staffing, as authorized by section 34 of the Federal Fire Prevention and Control Act of 1974, instead of $75,000,000 as proposed by the House and $115,000,000 as proposed by the Senate.

The conferees are concerned by the Department's proposed shift in grant focus from all-hazards to placing a priority on terrorism, and the proposed deletion of several eligible activities, specifically, wellness and fitness programs, emergency medical services, fire prevention programs, public education programs, and modifications of facilities for health and safety of personnel. The Department shall continue the current practice of funding applications according to local priorities and those established by the United States Fire Administration (USFA), continue direct funding of grants to fire departments, continue the peer review process for determining funding awards, reinstate all previously eligible funding areas, and include the USFA during grant administration. The conferees further agree to make $3,000,000 available for implementation of section 205(c) of Public Law 108–169, the United States Fire Administration Reauthorization Act of 2003.

EMERGENCY MANAGEMENT PERFORMANCE GRANTS

THE CONFEREES AGREE TO PROVIDE $185,000,000 INSTEAD OF $180,000,000 AS PROPOSED BY THE HOUSE AND $190,000,000 AS PROPOSED BY THE SENATE. THE CONFEREES AGREE EMERGENCY MANAGEMENT PERFORMANCE GRANTS (EMPGS) ARE VITAL TO STATE AND LOCAL EMERGENCY MANAGEMENT SYSTEMS. THE DEPARTMENT SHALL CONTINUE FUNDING PERSONNEL EXPENSES WITHOUT A LIMIT AND CONTINUE CURRENT GRANT ADMINISTRATIVE PRACTICES, INCLUDING GRANT ALLOCATION AND A FOCUS ON ALL-HAZARDS, IN A MANNER IDENTICAL TO FISCAL YEAR 2005. THE CONFEREES AGREE ODP SHALL CONTINUE TO INCLUDE THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) SUBJECT MATTER EXPERTS IN THE REVIEW OF EMPG APPLICATIONS, DETERMINATIONS OF ELIGIBILITY, AND MAKING AWARD DETERMINATIONS. FURTHERMORE, THE CONFEREES EXPECT FEMA REGIONAL EMERGENCY MANAGERS' RELATIONSHIP WITH STATE AND LOCAL GOVERNMENTS TO CONTINUE AND EXPECT ODP TO WORK WITH ALL STATE ADMINISTRATING AGENCIES TO ENSURE FUNDS REACH THE EMERGENCY MANAGEMENT COMMUNITIES AS QUICKLY AS POSSIBLE.

RADIOLOGICAL EMERGENCY PREPAREDNESS PROGRAM

The conferees agree to provide for the receipt and expenditure of fees collected, as authorized by Public Law 105–276 and as proposed by both the House and Senate. The conferees move these programs from the Emergency Preparedness and Response Directorate to the Preparedness Directorate, as proposed in the Secretary's organizational restructuring plan dated July 13, 2005.

UNITED STATES FIRE ADMINISTRATION AND TRAINING

The conferees agree to provide $44,948,000 for the United States Fire Administration and Training. Of this amount, $4,507,000 is for the Noble Training Center. The conferees move these programs from the Emergency Preparedness and Response Directorate to the Preparedness Directorate, as proposed in the Secretary's organizational restructuring plan dated July 13, 2005. The conferees concur with Senate report language on the preparedness of local fire departments; however, the report shall be provided by March 1, 2007, instead of February 18, 2006.

INFRASTRUCTURE PROTECTION AND INFORMATION SECURITY

The conferees agree to provide $625,499,000 for infrastructure protection and information security (IPIS) programs. The conferees move IPIS programs from Information Analysis and Infrastructure Protection (IAIP), Management and Administration and Evaluations and Assessments, to the Preparedness Directorate, as proposed in the Secretary's organizational restructuring plan submitted on July 13, 2005. Funding is allocated as follows:

Management and Administration	$83,342,000
Critical Infrastructure Outreach and Partnership	112,177,000
Critical Infrastructure Identification and Evaluation	68,500,000
National Infrastructure Simulation and Analysis Center	20,000,000
Biosurveillance	14,100,000
Protective Actions	91,399,000
Cyber Security	93,349,000
National Security/Emergency Preparedness Telecommunications	142,632,000
Total	625,499,000.

MANAGEMENT AND ADMINISTRATION

The conferees agree to provide $83,342,000 for Management and Administration. The conferees have reduced Management and Administration funding based on a continuing large number of personnel vacancies. The conferees do not believe the IPIS will reach its fully authorized full-time equivalent levels by the end of fiscal year 2005 and have reduced fiscal year 2006 funding accordingly.

CRITICAL INFRASTRUCTURE OUTREACH AND PARTNERSHIP

The conferees agree to provide $112,177,000 instead of $62,177,000 as proposed by the House and $126,592,000 as proposed by the Senate. Included in this amount is $50,000,000 for the National Center for Critical Information Processing and Storage (NCCIPS) for data center services for critical infrastructure information, including development, operations, and maintenance of the Center. The conferees direct a report, no later than February 10, 2006, on the progress of further developing NCCIPS.

CRITICAL INFRASTRUCTURE IDENTIFICATION AND EVALUATION

The conferees agree to provide $68,500,000 instead of $77,173,000 as proposed by the House and $59,903,000 as proposed by the Senate. Included in this amount is $7,500,000 for the Comprehensive Review directed in the House Report 109–79 and $20,000,000 for the National Asset Database.

CHEMICAL FACILITY SECURITY

The conferees direct the Secretary to complete vulnerability assessments of the highest risk chemical facilities in the United States by December 2006. In determining which facilities to assess, the Secretary should give preference to facilities that, if attacked, pose the greatest threat to human life and the economy. The conferees also direct the Department to complete a national security strategy for the chemical sector by February 10, 2006.

NATIONAL INFRASTRUCTURE SIMULATION AND ANALYSIS CENTER (NISAC)

The conferees agree to provide $20,000,000 instead of $16,000,000 as proposed by the House and $21,000,000 as proposed by the Senate. The conferees agree that Sandia and Los Alamos National Laboratories shall continue to develop the NISAC and be the lead entities in securing the Nation's critical infrastructure.

CYBER SECURITY

The conferees agree to provide $93,349,000, including $30,000,000 to continue National cyber security exercises and outreach. The conferees strongly support cyber partnerships among federal, state, local agencies, and the private sector that demonstrate the ability to transfer technologies from federal laboratories and package them into tools, training, and technical assistance to meet and enhance the demands of federal, state, and local end users. Included in the amount provided is the budget request level for United States Computer Emergency Readiness Team operations.

COUNTERTERRORISM FUND

The conferees agree to provide $2,000,000 instead of $10,000,000 as proposed by the House and $3,000,000 as proposed by the Senate. The conferees expect the Secretary to provide written notification to the Committees on Appropriations upon the designation of a National Special Security Event. The written notification shall include the following information: location and date of the event, federal agencies involved in the protection and planning of the event, the estimated federal costs of the event, and the source of funding to cover the anticipated expenditures.

FEDERAL EMERGENCY MANAGEMENT AGENCY

ADMINISTRATIVE AND REGIONAL OPERATIONS

The conferees agree to provide $221,240,000 instead of $227,747,000 as proposed by the House and $220,747,000 as proposed by the Senate. Within these funds, the conferees agree to provide $4,306,000 for the office of the Director of the Federal Emergency Management Agency (FEMA) and $5,000,000 for the Document Management Support Program.

The conferees are concerned with administrative actions being taken to close FEMA's Pacific Area Office (PAO). The PAO provides the primary federal response to disasters throughout the Pacific Islands. Given the PAO's proximity to the other Pacific Islands

within Region IX and the specialized knowledge of its staff on the islands' geography and cultures, the conferees direct FEMA to continue to operate the PAO.

PREPAREDNESS, MITIGATION, RESPONSE, AND RECOVERY

The conferees agree to provide $204,058,000 instead of $249,499,000 as proposed by the House and $193,899,000 as proposed by the Senate. No funding is provided for Nuclear Incident Response as proposed by the Senate. Within these funds, the conferees agree to provide $20,000,000 for catastrophic planning. The conferees do not agree to rescind $9,600,000 as proposed by the Senate. Within the funds provided for catastrophic planning, the conferees agree FEMA shall reimburse non-governmental organizations with cooperating agency responsibilities under the Department's National Response Plan (NRP) and Catastrophic Incident Annex/Supplement (CIA/S) for planning activities required by the NRP–CIA/S, provided costs do not exceed $5,000,000. Further, the Secretary is directed to include these costs in future budget submissions. The conferees concur with Senate bill language encouraging acquisition of an integrated mobile medical system.

The conferees are aware FM broadcast radio infrastructure and public television stations are moving forward with several Integrated Public Alert and Warning System programs towards a national alert and warning policy and architecture and encourage FEMA to support these efforts.

URBAN SEARCH AND RESCUE

Of the funds provided for Preparedness, Mitigation, Response, and Recovery, the conferees agree to provide $20,000,000 for urban search and rescue instead of $7,000,000 as proposed by the House and $30,000,000 as proposed by Senate. The conferees direct the Secretary to provide a report by February 10, 2006, on the total costs in fiscal years 2005, 2006, and proposed for 2007 to operate and train the 28 Urban Search and Rescue teams, the cost to maintain the first equipment cache, the cost to maintain the second equipment cache, the cost to replace expiring drugs, the costs to replace/repair equipment that has been used in training or actual disasters, and all other costs of the program. The report should include state, local and Federal costs and an assessment of the appropriate share for each level of government.

NATIONAL INCIDENT MANAGEMENT SYSTEM

Of the funds provided for Preparedness, Mitigation, Response, and Recovery, the conferees agree to provide $22,000,000 for the National Incident Management System (NIMS) as proposed by the House. The conferees direct FEMA to use no less than $10,000,000 to continue to implement NIMS nationwide, with a focus specifically on standards identification, testing and evaluation of equipment, and gap and lessons learned identification.

EMERGENCY STRUCTURES

Of the funds provided for Preparedness, Mitigation, Response, and Recovery, the conferees agree to provide $4,000,000 for emergency structures as proposed by the House. The Department is strongly encouraged to begin to utilize structures that can be stacked for economical shipping and storage, expanded during assembly to increase useable space, and returned to their original dimensions when disassembled. The structures should also be suitable to address infrastructure needs, such as offices, schools, medical centers, and other public buildings, and sturdy enough to ensure multiple reuse in future deployments. The conferees believe this innovative and higher quality structure should provide substantial cost-savings over time to the federal government through effective multiple reuse, and will enhance current response and recovery activities well beyond the semi-disposable products currently being used. The conferees direct FEMA to commence this new activity immediately and to ensure emergency housing and infrastructure requirements are submitted with their fiscal year 2007 budget request.

MASS EVACUATIONS

The conferees recognize that state and local governments must develop multi-state and multi-jurisdictional plans in the event that a mass evacuation takes place from an urban area to neighboring rural areas. The conferees direct the Department, through the Catastrophic Disaster Planning Program, to develop coordinated guidelines for state and local governments as they develop mass evacuation plans. Plans should include, where appropriate, the pre-positioning of items that will be required during a mass evacuation, such as food, water, medicine and interoperable communications equipment. The Department is encouraged to consider the need for such pre-positioned equipment in allocating first responder funds.

CRISIS COUNSELING

The conferees understand the Crisis Counseling Program, funded to provide mental health services for first responders who responded to the attacks of 9/11 ended September 30, 2005. Further, the conferees understand New York City will provide similar services to those who continue to need services. In order to ensure first responders continue to receive mental health and other services, the conferees direct FEMA to provide a report on the transition of these services from federal to city administration by February 10, 2006.

PUBLIC HEALTH PROGRAMS

The conferees agree to provide $34,000,000 as proposed by both the House and Senate.

DISASTER RELIEF

The conferees agree to provide $1,770,000,000 instead of $2,000,000,000 as proposed by the House and $1,920,000,000 as proposed by the Senate. The conferees concur with House report language on Disaster Relief Fund overpayments; however, the report shall be provided by June 1, 2006, instead of March 15, 2006.

The conferees agree the Secretary shall provide clear, concise, and uniform guidelines for the reimbursement to any county or government entity affected by a hurricane on the costs of hurricane debris removal.

The conferees agree the Secretary shall submit to the Committees on Appropriations a report describing any changes to federal emergency preparedness and response policies and practices as a result of the Inspector General's report (OIG–05–20) related to Hurricane Frances.

The conferees agree that, not later than 90 days from the date of enactment of this Act, the Secretary shall issue new guidelines to prohibit inspectors from entering into a contract for the sale of any house or household item he or she inspected. The guidelines shall apply to those performing inspections that determine eligibility for assistance from FEMA.

DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

The conferees agree to provide $567,000 for administrative expenses as proposed by both the House and Senate. Gross obligations for the principal amount of direct loans shall not exceed $25,000,000 as proposed by both the House and Senate.

FLOOD MAP MODERNIZATION FUND

The conferees agree to provide $200,000,000 as proposed by both the House and Senate. The conferees recognize the importance of the Flood Map Modernization Program to state and local governments. When allocating federal flood mapping modernization funds, the conferees encourage FEMA to prioritize as criteria the number of stream and coastal miles within the state, the Mississippi River Delta region, and the participation of the state in leveraging non-federal contributions. The conferees further direct FEMA to recognize and support those states that integrate the Flood Map Modernization Program with other state programs to enhance greater security efforts and capabilities in the areas of emergency management, transportation planning and disaster response. The conferees recognize the usefulness of updated flood maps in state planning, and encourage this efficient use of federal dollars. This is in addition to direction contained in the House and Senate reports.

NATIONAL FLOOD INSURANCE FUND

(INCLUDING TRANSFER OF FUNDS)

The conferees agree to provide $36,496,000 for salaries and expenses as proposed by both the House and Senate. The conferees further agree to provide up to $40,000,000 for severe repetitive loss property mitigation expenses pursuant to section 1361A of the National Flood Insurance Act (NFIA) of 1968; $10,000,000 for flood mitigation activities pursuant to section 1323 of the NFIA; and up to $99,358,000 for other flood mitigation activities, of which up to $40,000,000 is available for transfer to the National Flood Mitigation Fund. The conferees further agree on limitations of $55,000,000 for operating expenses, $660,148,000 for agents' commissions and taxes, and $30,000,000 for interest on Treasury borrowings.

The conferees believe that, while the new flood mitigation programs targeted at repetitive loss properties will strengthen the solvency of the National Flood Insurance Fund in the long-term, it is important to manage the short-term health of the Fund as well. Therefore, the conferees direct FEMA, in the execution of these programs, to manage the Fund in the most appropriate manner in order to maintain solvency.

NATIONAL FLOOD MITIGATION FUND

The conferees agree to provide $40,000,000 by transfer from the National Flood Insurance Fund as proposed by the House instead of $28,000,000 as proposed by the Senate.

NATIONAL PREDISASTER MITIGATION FUND

The conferees agree to provide $50,000,000 instead of $150,000,000 as proposed by the House and $37,000,000 as proposed by the Senate. The conferees are concerned with the current large unobligated balances in the National Predisaster Mitigation Fund. The conferees understand FEMA intends to obligate $118,000,000 of carryover funding in fiscal year 2005 and the remaining $130,000,000 by the end of fiscal year 2006. The conferees support the Predisaster Mitigation program but are concerned by the very slow pace of implementation and the obligation of the funds.

EMERGENCY FOOD AND SHELTER

The conferees agree to provide $153,000,000 as proposed by both the House and Senate.

TITLE IV—RESEARCH, DEVELOPMENT, TRAINING, AND SERVICES

UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES

The conferees agree to provide $115,000,000, instead of $120,000,000 as proposed by the House and $80,000,000 as proposed by the Senate. The conference agreement includes $80,000,000 for backlog elimination, as well as $35,000,000 to support the U.S. Citizenship and Immigration Services (CIS) information technology transformation effort and convert immigration records into digital format. Current estimates of fee collections are

$1,774,000,000, for total resources available to CIS of $1,889,000,000. The conferees direct that, of these collections, not to exceed $5,000 shall be for official reception and representation expenses. The conferees do not require the Department to report on facility needs for CIS.

The following table specifies funding by budget activity, and includes both direct appropriations and estimated collections:

Backlog Reduction Initiatives (Direct Appropriations):	
Contracting Services (Backlog reduction)	$70,000,000
Other (Backlog reduction)	10,000,000
Digitization and Information Technology Transformation	35,000,000
Subtotal, Backlog Reduction Initiatives	115,000,000
Adjudication Services (fee accounts):	
Pay and Benefits	657,000,000
Operating Expenses:.	
District Operations	349,000,000
Service Center Operations	250,000,000
Asylum, Refugee and International Operations	74,000,000
Records operations	66,000,000
Subtotal, Adjudication Services	1,396,000,000 ERR
Information and Customer Services (fee accounts):	
Pay and Benefits	80,000,000
Operating Expenses.	
National Customer Service Center	47,000,000
Information Services	14,000,000
Subtotal, Information and Customer Services	141,000,000
Administration (fee accounts):	
Pay and Benefits	44,000,000
Operating expenses	193,000,000
Subtotal, Administration	237,000,000
Total, U.S. Citizenship and Immigration Services	1,889,000,000

INFORMATION TECHNOLOGY MODERNIZATION

The conferees include $35,000,000 to support the information technology transformation process at CIS. The conferees direct CIS to refrain from obligating any of the funds until the Committees on Appropriations have received and approved a detailed spending plan, complete with project milestones, and reflecting compliance with DHS and OMB guidelines for information technology investments.

SPANISH LANGUAGE PROGRAMS

The conferees are aware CIS programs such as the National Customer Service Center provide nationwide telephone assistance to customers calling from within the United States about immigration services and benefits; information is available in English and Spanish. The conferees encourage CIS to continue to support programs that provide Spanish-speaking residents with information and assistance related to naturalization and citizenship.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

The conferees agree to provide $194,000,000 as proposed by the House and the Senate. This amount includes the funds requested in the budget and an additional $10,638,000 to meet the increased training needs of the Border Patrol and Immigration and Customs Enforcement.

The conferees are concerned with the lack of use of the Cheltenham, Maryland, training site. The conferees direct the Department to provide a report on the utilization rates of this facility and make recommendations on how it intends to improve usage no later than February 10, 2006.

The conferees do not provide authority to assess pecuniary liability against employees and students.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

The conferees agree to provide $88,358,000 as proposed by the Senate instead of $64,743,000 as proposed by the House. The increase from the budget request includes $44,327,000 for renovation and construction needs at the Artesia, New Mexico, training center and $3,395,000 for construction at the Glynco, Georgia, training center.

INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION

MANAGEMENT AND ADMINISTRATION

The conferees agree to provide no funding for this appropriation, as proposed in the Secretary's organizational restructuring plan submitted on July 13, 2005, which abolished Information Analysis and Infrastructure Protection (IAIP), Management and Administration, instead of $190,200,000 as proposed by the House and $168,769,000 as proposed by the Senate. Funding for the functions currently performed by IAIP are included under other appropriations in this Act, and are identified accordingly.

ASSESSMENTS AND EVALUATIONS

The conferees agree to provide no funding for this appropriation, as proposed in the Secretary's organizational restructuring plan submitted on July 13, 2005, which abolished IAIP, Assessments and Evaluations, instead of $663,240,000 as proposed by the House and $701,793,000 as proposed by the Senate. Funding for the functions currently performed by IAIP are included under other appropriations in this Act, and are identified accordingly.

SCIENCE AND TECHNOLOGY

MANAGEMENT AND ADMINISTRATION

The conferees agree to provide $81,099,000 for management and administration as proposed by the Senate instead of $81,399,000 as proposed by the House. This amount includes $6,479,000 for the immediate Office of the Under Secretary and $74,620,000 for other salaries and expenses.

RESEARCH, DEVELOPMENT, ACQUISITION, AND OPERATIONS

The conferees agree to provide $1,420,997,000 for research, development, acquisition, and operations instead of $1,208,597,000 as proposed by the House and $1,372,399,000 as proposed by the Senate.

The following table specifies funding by budget activity:

Biological Countermeasures	$380,000,000
Chemical Countermeasures	95,000,000
Explosives Countermeasures	44,000,000
Threat and Vulnerability, Testing and Assessment	43,000,000
Conventional Missions	80,000,000
Rapid prototyping program	35,000,000
Standards	35,000,000
Emerging Threats	8,000,000
Critical Infrastructure Protection	40,800,000
University Programs/Homeland Security Fellowship Programs	63,000,000
Counter MANPADS	110,000,000
Safety Act	7,000,000
Cyber Security	16,700,000
Interoperability and Compatibility	26,500,000
Research and Development Consolidation	99,897,000
Radiological and Nuclear Countermeasures	19,086,000
Domestic Nuclear Detection Office	318,014,000
Total, Research, Development, Acquisition, and Operations	1,420,997,000

TECHNOLOGY DEVELOPMENT AND TRANSFER

The conferees do not provide separate funding for Technology Development and Transfer as proposed by the House.

BIOLOGICAL COUNTERMEASURES

The conferees agree to provide $380,000,000 for Biological Countermeasures instead of $360,000,000 as proposed by the House and $384,300,000 as proposed by the Senate. The conferees agree to provide $23,000,000 to select a site and other pre-construction activities for the National Bio and Agrodefense Facility.

AIR CARGO

Based on recommendations in Science and Technology's (S&T) system engineering study of civil aviation security, the conferees direct $30,000,000 be used to conduct three cargo screening pilot programs—one at an all cargo airport facility and two at passenger cargo airports (top twenty in size)—to test different concepts of operation, as described in the House report. The conferees expect S&T to utilize TSA airport management staff to manage the oversight and day-to-day operations of these pilot programs to the greatest extent possible. One of the pilots should test whether a significant amount of cargo can be screened in the terminal using existing checked baggage security infrastructure. The conferees also expect S&T to locate these pilots at airport or

airline facilities willing to contribute both physical space and other resources to this effort. The conferees direct S&T to begin all pilots in fiscal year 2006, to report on the initial results of the pilots every six months after initiation of the first pilot, and to report on the final results four months after the last pilot is completed.

RADIOLOGICAL AND NUCLEAR COUNTERMEASURES

The conferees agree to provide $19,086,000 for Radiological and Nuclear Countermeasures as proposed by the House instead of $226,000,000 as proposed by the Senate for Incident Management and Recovery, and Attribution and Forensics on Contaminated Evidence. Funding for all other Radiological and Nuclear portfolio activities is transferred to the Domestic Nuclear Detection Office.

DOMESTIC NUCLEAR DETECTION OFFICE

The conferees agree to provide $318,014,000 for the Domestic Nuclear Detection Office (DNDO) instead of $127,314,000 as proposed by both the House and the Senate. The conferees direct not less than $81,000,000 of the amount provided is for evolutionary and transformational radiological and nuclear research and development activities. DNDO should leverage its resources with existing institutions, such as national labs and the research and development community, where practicable. In addition, $4,000,000 is included for deployment of detection systems at interstate weigh stations. The amount provided also includes $125,000,000, as proposed by the Senate within the S&T ''Rad/Nuc'' research program and by the House within the Customs and Border Protection ''Salaries and Expenses'' account, for the testing, development, and deployment of radiation portal monitors at the Nation's ports-of-entry. Language is included in the bill making this amount available until expended solely for this purpose.

Excluding funding for radiation portal monitors, $144,760,500 may not be obligated until the Committees on Appropriations receive and approve an expenditure plan prepared by the Secretary and reviewed by the Government Accountability Office. None of these funds shall be obligated for establishing new programs, prototyping, or implementing a global systems architecture until the Committees on Appropriations receive and approve the expenditure plan. This plan shall include funding by program, project, and activity for each of fiscal years 2006 through 2010 and an organizational staffing plan, including contractors, full-time employee equivalents, and intra and inter agency detailees. In addition, the conferees direct the expenditure plan include a detailed description of the global nuclear detection systems architecture and milestones and costs, by fiscal year, for implementing the architecture. The plan should also include identification of the roles, missions, and responsibilities of DNDO as compared to the statutory responsibilities of all Federal agencies involved in radiological and nuclear detection and how the DNDO changes any current roles, responsibilities, and functions of each involved Federal partner in both the domestic and international arenas.

CONVENTIONAL MISSION SUPPORT

The conferees agree to provide $80,000,000 as proposed by the House instead of $74,650,000 as proposed by the Senate. The amount includes $25,000,000 for piloting a regional program for Federal Emergency Management Agency/State and Locals, as proposed by the Senate.

CONTAINER SECURITY AND MEGAPORTS INITIATIVE

The conferees support the budget request for container security research activities. The conferees direct the Department to provide a report, in conjunction with the U.S. Department of Energy, by February 10, 2006, on the progress made by both Departments on various radiation technology efforts, the degree of coordination between the megaport initiative and the Container Security Initiative, the types of technology (both radiation detection and other non-intrusive inspection technology) being deployed at specific locations, and the extent to which next generation technology is being explored and developed for future use.

BLAST RESISTANT RECEPTACLES

The conferees concur with the House report on blast resistant receptacles.

CRITICAL INFRASTRUCTURE PROTECTION

The conferees agree to provide $40,800,000 for Critical Infrastructure protection instead of $35,800,000 as proposed by the House and $13,800,000 as proposed by the Senate. The conferees recommend $20,000,000 to support existing work in research, development and application of technology for community based critical infrastructure protection efforts. The conferees are concerned the Department lacks appropriate assessment tools to help prioritize security risks for critical infrastructure and urges S&T to examine well-established scientific analysis tools commonly used in engineering and design, including six sigma analysis.

RAPID PROTOTYPING

The conferees agree to provide $35,000,000 for Rapid Prototyping instead of $30,000,000 as proposed by the House and $20,900,000 as proposed by the Senate. The conferees support the budget request and include additional funds of $4,000,000 to encourage further implementation of section 313 of the Homeland Security Act of 2002, and to increase the speed innovative products are being reviewed, certified, and released to market. An additional $10,000,000 is provided to evaluate emerging civil aviation defense technologies.

COUNTER MANPADS

The conferees agree to provide $110,000,000 as proposed by the House and the Senate. The conferees do not support using $10,000,000 of this amount for investigating alternative technologies as proposed by the House.

INTEROPERABILITY AND COMPATIBILITY

The conferees agree to provide $26,500,000 for Interoperability and Compatibility instead of $41,500,000 as proposed by the House and $15,000,000 as proposed by the Senate. The amount provided includes $5,000,000 for expanded deployment of RapidCom, instead of $10,000,000 as proposed by the House. The conferees concur with the House report language regarding the Risk Assessment Policy Working Group. The conferees direct the Office of Interoperability and Compatibility (OIC) to work with the National Institute of Standards and Technology and the U.S. Department of Justice to require, when Project 25 equipment is purchased with such funds, the equipment meets the requirements of a conformity assessment program. The conferees further direct such a conformity assessment program be funded by this appropriation and be available by the end of fiscal year 2006. Consistent with current SAFECOM guidelines, the conferees agree other technologies can also be funded, but the grant applications should present a compelling argument why the use of these other technologies will improve the status quo of interoperability with neighboring jurisdictions.

AGROTERRORISM

The conferees encourage the Department to work in conjunction with USDA and HHS and other organizations on agroterrorism and animal-based bioterrorism, including the development and stockpiling of veterinary vaccines. The conferees also encourage S&T to work with one or more states to develop a model integrated agricultural response system, utilizing geographic information systems that identify critical agricultural infrastructure. Such a system should help prevent, and mitigate the impact of, incidents.

NEW TECHNOLOGIES

The conferees believe new technologies may significantly help the Department as it seeks to secure our homeland. The conferees encourage the Department to develop such technologies as lightweight miniature cooling systems for protective gear; proteomic pathogen reference libraries; aquatic bioassessment; airborne rapid response mapping; mobile and non-intrusive cargo scanning; investments that focus on nuclear threats and biological attacks, such as aerosolized pathogens and the spread of zoonotic diseases as well as the spread of infectious disease such as SARS and avian flu; real-time detection, identification and assessment of chemical, biological, nuclear, radiological, explosive and concealed threats; mitigating hazardous material shipping violations; and leveraging intelligent transportation systems.

NANOTECHNOLOGY

The conferees believe nanotechnology is a promising technology that can contribute significantly in the defense against terrorism. The conferees encourage S&T to pursue research in nanotechnologies that may aid in the detection of biological, chemical, radiological, and explosive agents; and to consider ways to use these technologies for protecting transit systems.

TUNNELS

The conferees support language in the House report and section 524 of the Senate bill with regard to tunnel detection technologies.

RESEARCH AND DEVELOPMENT CONSOLIDATION

The conferees agree to provide $99,897,000 as proposed by the Senate instead of $116,897,000 as proposed by the House to consolidate all research and development funding within S&T with the exception of research and development activities of the U.S. Coast Guard, which is to remain within that agency.

TITLE V—GENERAL PROVISIONS

Section 501. The conferees continue a provision that no part of any appropriation shall remain available for obligation beyond the current year unless expressly provided.

Section 502. The conferees continue a provision that unexpended balances of prior appropriations may be merged with new appropriations accounts and used for the same purpose, subject to reprogramming guidelines.

Section 503. The conferees continue and modify a provision that provides authority to reprogram appropriations within an account and to transfer not to exceed five percent between appropriations accounts with 15-day advance notification of the Committees on Appropriations. A detailed funding table identifying each Congressional control level for reprogramming purposes is included at the end of this statement. These reprogramming guidelines shall be complied with by all agencies funded by the Department of Homeland Security Appropriations Act, 2006.

The conferees expect the Department to submit reprogramming requests on a timely basis, and to provide complete explanations of the reallocations proposed, including detailed justifications of the increases and offsets, and any specific impact the proposed changes will have on the budget request for the following fiscal year and future-year appropriations requirements. Each request submitted to the Committees should include a

detailed table showing the proposed revisions at the account, program, project, and activity level to the funding and staffing (full-time equivalent position) levels for the current fiscal year and to the levels requested in the President's budget for the following fiscal year.

The conferees expect the Department to manage its programs and activities within the levels appropriated. The conferees are concerned with the number of reprogramming proposals submitted for consideration by the Department and remind the Department that reprogramming or transfer requests should be submitted only in the case of an unforeseeable emergency or situation that could not have been predicted when formulating the budget request for the current fiscal year. Further, the conferees note that when the Department submits a reprogramming or transfer request to the Committees on Appropriations and does not receive identical responses from the House and Senate, it is the responsibility of the Department to reconcile the House and Senate differences before proceeding, and if reconciliation is not possible, to consider the reprogramming or transfer request unapproved.

The Department is not to propose a reprogramming or transfer of funds after June 30th unless there are exceptional or extraordinary circumstances such that lives or property are placed in imminent danger.

Section 504. The conferees include a new provision that none of the funds appropriated or otherwise available to the Department may be used to make payment to the Department's Working Capital Fund, except for activities and amounts allowed in section 6024 of Public Law 109–13, excluding the Homeland Secure Data Network, as proposed by the Senate.

Section 505. The conferees continue a provision that not to exceed 50 percent of unobligated balances remaining at the end of fiscal year 2006 from appropriations made for salaries and expenses shall remain available through fiscal year 2007 subject to reprogramming guidelines.

Section 506. The conferees continue a provision that provides that funds for intelligence activities are deemed to be specifically authorized during fiscal year 2006 until the enactment of an Act authorizing intelligence activities for fiscal year 2006.

Section 507. The conferees continue and modify a provision that directs the Federal Law Enforcement Training Center (FLETC) to lead the Federal law enforcement training accreditation process.

Section 508. The conferees continue and modify a provision that requires notification of the Committees on Appropriations three business days before any grant allocation, discretionary grant award, discretionary contract award, letter of intent, or public announcement of the intention to make such an award totaling in excess of $1,000,000.

Section 509. The conferees continue a provision that no agency shall purchase, construct, or lease additional facilities for federal law enforcement training without advance approval of the Committees on Appropriations.

Section 510. The conferees continue a provision that FLETC shall schedule basic and/or advanced law enforcement training at all four training facilities under its control to ensure that these training centers are operated at the highest capacity.

Section 511. The conferees continue a provision that none of the funds may be used for any construction, repair, alteration, and acquisition project for which a prospectus, if required by the Public Buildings Act of 1959, has not been approved.

Section 512. The conferees continue a provision that none of the funds may be used in contravention of the Buy American Act.

Section 513. The conferees include a new provision requiring the Department to take actions to comply with the second proviso of section 513 of Public Law 108–334 and to submit a report to the Committees on Appropriations biweekly beginning on October 1, 2005, if the Department is not in compliance. Additionally, the Secretary shall take all possible actions to increase the level of cargo screened beyond the level mandated in section 513 of Public Law 108–334 and shall report to the Committees on Appropriations every six months on the actions taken and the quantity of air cargo inspected at each airport.

Section 514. The conferees continue a provision that allows TSA to impose a reasonable charge for the lease of real and personal property to TSA employees.

Section 515. The conferees continue and make permanent a provision that directs that the acquisition management system of TSA be applied to the acquisition of services, equipment, supplies, and materials.

Section 516. The conferees continue and modify a provision related to the transfer of the authority to conduct background investigations from the Office of Personnel Management to DHS, as proposed by the House. The conferees are concerned by delays in personnel security and suitability background investigations, update investigations and periodic reinvestigations for Departmental employees and, in particular for positions within the Office of the Secretary and Executive Management, Office of the Under Secretary for Management, Analysis and Operations, Immigration and Customs Enforcement, the Directorate of Science and Technology, and the Directorate for Preparedness. The conferees direct that this authority be used to expeditiously process background investigations, including updates and reinvestigations, as necessary.

Section 517. The conferees continue and make permanent a provision that exempts funds appropriated under paragraphs (1) and (2) of the State and Local Programs heading under Title III of this Act from the provisions of the Cash Management Improvement Act of 1990.

Section 518. The conferees continue and modify a provision to prohibit the obligation of funds for the Secure Flight program, except on a test basis, until the requirements of section 522 of Public Law 108–334 have been met and the Government Accountability Office (GAO) has reviewed and made certain certifications. The conferees direct the GAO to continue to evaluate DHS and TSA actions to meet the ten elements listed in section 522 of Public Law 108–334 and to report to the Committees on Appropriations, either incrementally as the Department meets additional elements, or when all elements have been met by the Department. The provision also prohibits the obligation of funds for a commercial database that is obtained from or remains under the control of a non-Federal entity, excluding Passenger Name Record data obtained from air carriers.

Section 519. The conferees continue a provision that directs that none of the funds may be used to amend the oath of allegiance required by section 337 of the Immigration and Nationality Act (8 U.S.C. 1448).

Section 520. The conferees continue a provision regarding competitive sourcing.

Section 521. The conferees continue a provision that none of the funds in this Act shall be available to maintain the United States Secret Service as anything but a distinct entity within the Department of Homeland Security and shall not be used to merge the United States Secret Service with any other department function, cause any personnel and operational elements of the United States Secret Service to report to an individual other than the Director of the United States Secret Service, or cause the Director to report directly to any individual other than the Secretary of Homeland Security.

Section 522. The conferees include a new provision that none of the funds appropriated in this Act or by previous appropriations Acts may be made available for the protection of the head of a Federal agency other than the Secretary of Homeland Security, unless the Secret Service is fully reimbursed, as proposed by the Senate.

Section 523. The conferees include a new provision that directs that the data storage facilities at the John C. Stennis Space Center shall hereafter be known as the ''National Center for Critical Information Processing and Storage,'' as proposed by the Senate.

Section 524. The conferees include a new provision that directs the Secretary to develop standards and protocols for increasing the use of explosive detection equipment to screen air cargo when appropriate, as proposed by the House and modified by the conferees.

Section 525. The conferees include a new provision that directs TSA to utilize existing checked baggage explosive detection equipment and screeners to screen cargo on passenger aircraft when practicable, as proposed by the House. The provision directs TSA to submit a monthly report, starting in August 2005, to the Committees on Appropriations on the amount of cargo carried on passenger aircraft that was screened.

Section 526. The conferees include a new provision that directs that none of the funds available for obligation in this Act be used for the transportation worker identification credential program to develop a personalization system that is decentralized or a card production capability that does not utilize an existing government card production facility, as proposed by the House.

Section 527. The conferees include a new provision that rescinds $78,630,689 for Integrated Deepwater System 110- to 123-foot patrol boats conversion found in the United States Coast Guard ''Acquisition, Construction and Improvements'' account, as proposed by the House, and modified by the conferees. The funds are re-appropriated towards the service life extension of Island Class patrol boats and the design, production, and long lead materials of the Fast Response Cutter.

Section 528. The conferees include a new provision that directs the Secretary to utilize the Transportation Security Clearinghouse, which currently processes criminal history background checks for airline and airport employees, as the central identity management system for deployment and operation of the registered traveler program and the transportation worker identification credential program for the purposes of collecting and aggregating biometric data necessary for background vetting; providing all associated record-keeping, customer service, and related functions; ensuring interoperability between different airports and vendors; and acting as a centralized aviation, revocation, and transaction hub for participating airports, ports, and other points of presence, as proposed by the House.

Section 529. The conferees include a new provision that directs that only the privacy officer, appointed pursuant to section 222 of the Homeland Security Act of 2002, may alter, direct that changes be made to, delay or prohibit the transmission of a privacy officer report to Congress, as proposed by the House.

Section 530. The conferees include a new provision requiring only those employees who are trained in contract management to

perform contract management, as proposed by the House and modified by the conferees. The conferees note that an Inspector General's report (OIG–05–18) on the Transportation Security Operations Center found blatant mismanagement and waste of taxpayer dollars. TSA employees managing this contract did not have proper training. The conferees direct the Secretary to ensure that this does not happen in the future.

Section 531. The conferees include a new provision that directs that any funds appropriated or transferred to TSA ''Aviation Security'' and ''Administration'' in fiscal years 2004 and 2005, which are recovered or deobligated shall be available only for procurement and installation of explosive detection systems for air cargo, baggage and checkpoint screening systems, subject to section 503 of this Act, as proposed by the House and modified by the conferees.

Section 532. The conferees include a new provision regarding the survey and designation of ports of entry in the United States, as proposed by the Senate and modified by the conferees.

Section 533. The conferees include a new provision regarding FEMA's public assistance program and the City of Paso Robles, California, as proposed by the House and modified by the conferees.

Section 534. The conferees include a new provision regarding FEMA's public assistance program and El Dorado County, California, as proposed by the House and modified by the conferees.

Section 535. The conferees include a new provision regarding FEMA's public assistance program and the University of Hawaii, Manoa campus.

Section 536. The conferees include a new provision regarding H2A Visas.

Section 537. The conferees include a new provision on Sensitive Security Information as proposed by the House and modified by the conferees.

Section 538. The conferees provide $40,000,000 for discretionary grants to States to implement the REAL ID Act of 2005 instead of $100,000,000 as proposed by the House and $40,000,000 as proposed by the Senate within the Office of State and Local Government Coordination and Preparedness. These grants, to assist with the implementation of the national standards for drivers' licenses, shall be made at the discretion of the Secretary. Bill language is included requiring the submission of an implementation plan for the responsibilities of the Department of Homeland Security under the recently enacted REAL ID Act of 2005 (Public Law 109–13). This plan should include, but not be limited to, the proposed uses of the funds, and the criteria to be used to approve the extension of deadlines. The conferees include bill language requiring that no less than $6,000,000 be made available for pilot projects to begin immediately in order that lessons learned and best practices might be made available to all States as quickly as possible.

Section 539. The conferees include a new provision that extends the authorization of the Working Capital Fund until October 1, 2006.

Section 540. The conferees include a new provision regarding fees for the registered traveler program.

Section 541. The conferees include a new provision regarding liability protection for certain persons who report a situation, activity or incident.

Section 542. The conferees include a new provision that rescinds $15,000,000 from the Department of Homeland Security Working Capital Fund, instead of $7,000,000 as proposed by the House and $12,000,000 as proposed by the Senate under Departmental Management and Operations.

Section 543. The conferees include a new provision that rescinds $5,500,000 from unobligated balances previously appropriated to the Transportation Security Administration, ''Aviation Security''. Of these funds, $3,000,000 shall be rescinded from training and other activities and $2,500,000 shall be rescinded from checkpoint support.

Section 544. The conferees include a new provision that rescinds $6,369,118 from previous Appropriations Acts for the United States Coast Guard ''Operating Expenses'' and ''Acquisition, Construction and Improvements''. The Secretary is directed to advise the Committees on Appropriations on the distribution of the rescission prior to its implementation.

Section 545. The conferees include a new provision that rescinds $8,000,000 from unobligated balances previously appropriated to the Counterterrorism Fund.

Section 546. The conferees include a new provision that rescinds $20,000,000 from unobligated balances previously appropriated to Science and Technology, ''Research, Development, Acquisition, and Operations''. The Secretary is directed to advise the Committees on Appropriations on the distribution of the rescission prior to its implementation.

Section 547. The conferees include a new provision on the Transportation Security Administration's security screening opt-out program.

Section 548. The conferees include a new provision on the weekly reporting requirement directed in Public Law 109–62.

PROVISIONS NOT ADOPTED

The conference agreement deletes section 513 of the House bill requiring the Coast Guard to provide Congress a list of approved but unfunded priorities each year.

The conference agreement deletes section 519 of the Senate bill reflecting the sense of the Senate on border security. This requirement is addressed in the statement of managers.

The conference agreement deletes section 520 of the Senate bill providing emergency funds to the Veterans Health Administration.

The conference agreement deletes section 521 of the Senate bill requiring a report on the steps the Department has taken to comply with the recommendations of the Inspector General's report on the Port Security Grant Program. This requirement is addressed in the statement of managers.

The conference agreement deletes section 522 of the Senate bill requiring the Department to conduct a survey of state and local government emergency officials on homeland security related matters. This requirement is addressed in the statement of managers.

The conference agreement deletes section 523 of the Senate bill requiring a quadrennial review of homeland defense. This requirement is addressed in the statement of managers.

The conference agreement deletes section 524 of the House bill requiring the Department of Homeland Security to submit a security plan to open general aviation at Ronald Reagan Washington National Airport.

The conference agreement deletes section 524 of the Senate bill reflecting the sense of the Senate on rail tunnel security research. This requirement is addressed in the statement of managers.

The conference agreement deletes section 525 of the Senate bill encouraging the Secretary of Homeland Security to designate one agency within the Department of Homeland Security with the responsibility for managing man portable air defense system countermeasures systems.

The conference agreement deletes section 526 of the Senate bill directing the Secretary to provide a detailed accounting of funds made available by Congress to New York City and the State of New York as a result of the September 11, 2001, terrorist attacks.

A report on the transition of Crisis Counseling services from FEMA to New York City is addressed in the statement of managers.

The conference agreement deletes section 527 of the Senate bill requiring a report on the risks and vulnerabilities associated with general aviation. This requirement is addressed in the statement of managers.

The conference agreement deletes section 528 of the Senate bill requiring the submittal of data-mining reports from the head of each Department of Homeland Security agency that is engaged in, or developing, data-mining. This requirement is addressed in the statement of managers.

The conference agreement deletes section 529 of the Senate bill prohibiting the use of funds identified in the Inspector General's Report of March 2005 ''Irregularities in the Development of the Transportation Security Operations Center'' as wasteful. This requirement is addressed in the statement of managers.

The conference agreement deletes section 531 of the Senate bill reflecting the sense of the Senate that the Department of Homeland Security should continue to coordinate with the American Red Cross in developing a mass care plan in the United States. This issue is addressed in the statement of managers.

The conference agreement deletes section 532 of the Senate bill requiring the Department of Defense to submit the overdue report requested in Public Law 109–13.

The conference agreement deletes section 533 of the Senate bill reflecting the sense of the Senate on the vulnerabilities of chemical facilities. This requirement is addressed in the statement of managers.

The conference agreement deletes section 533 of the House bill regarding H1B Visa processing.

The conference agreement deletes section 534 of the Senate bill requiring the Secretary to provide reimbursement guidelines to any county or government entity affected by a hurricane of the costs of hurricane debris removal. This requirement is addressed in the statement of managers.

The conference agreement deletes section 535 of the House bill prohibiting the use of funds to alter the name of Coast Guard Station ''Group St. Petersburg''.

The conference agreement deletes section 535 of the Senate bill requiring a report on changes to emergency preparedness and response policies as a result of the report of the Inspector General dated May 20, 2005. This requirement is addressed in the statement of managers.

The conference agreement deletes section 536 of the House bill prohibiting the use of funds to patrol the border of the United States except as authorized by law.

The conference agreement deletes section 536 of the Senate bill reflecting the sense of the Senate that the Department should conduct a study of the feasibility of leveraging existing FM broadcast radio infrastructure as an emergency messaging system. This requirement is addressed in the statement of managers.

The conference agreement deletes section 537 of the Senate bill requiring the Under Secretary for Emergency Preparedness and Response to propose new inspection guidelines that prohibit inspectors from entering into contracts with any individual or entity for whom the inspector performs an inspection for the purpose of determining eligibility for assistance from the Federal Emergency Management Agency. This requirement is addressed in the statement of managers.

The conference agreement deletes section 538 of the Senate bill, which would prohibit the Departments of Homeland Security and State from issuing regulations to limit United States citizens to a passport as the exclusive document to be presented upon entry into the United States from Canada by land. The proposed rule, as issued for public comment on September 1, 2005, is in compliance with the Senate provision. The conferees expect that the Department will provide alternatives to SENTRI, NEXUS and FAST for residents of small and rural Northern Border communities.

The conference agreement deletes section 539 of the Senate bill directing the Comptroller General of the United States to conduct a study on the justification and effects of raising the Homeland Security Advisory System alert level to Code Orange.

The conference agreement deletes section 540 of the Senate bill reflecting the sense of the Senate on strengthening security at nuclear power plants.

The conference agreement deletes section 541 of the Senate bill reflecting the sense of the Senate regarding threat assessment of major tourist attractions. This requirement is addressed in the statement of managers.

TITLE VI—HOMELAND SECURITY GRANT ENHANCEMENT

The conference agreement does not include Title VI of the Senate bill, ''Homeland Security Grant Enhancement'' as proposed by the Senate. The House bill contained no similar matter.

CONFERENCE RECOMMENDATIONS

The conference agreement's detailed funding recommendations for programs in this bill are contained in the table listed below. The fiscal year 2006 budget request column reflects the Department of Homeland Security's organizational restructuring plan transmitted to Congress on July 13, 2005.

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
DEPARTMENT OF HOMELAND SECURITY		
TITLE I - DEPARTMENTAL MANAGEMENT AND OPERATIONS		
Departmental Operations		
Office of the Secretary and Executive Management:		
Immediate Office of the Secretary	2,393	2,393
Immediate Office of the Deputy Secretary	1,132	1,132
Chief of Staff	4,103	4,103
Executive Secretary	5,491	4,131
Office of Policy	25,027	20,713
Office of Public Affairs	9,312	8,312
Office of Legislative and Intergovernmental Affairs	7,107	6,325
Office of General Counsel	11,947	11,267
Office of Civil Rights and Liberties	13,000	13,000
Citizenship and Immigration Services Ombudsman	3,652	3,652
Privacy Officer	3,981	4,381
Regions	49,895	---
Subtotal, Office of the Secretary and Executive Management	137,040	79,409
Office of Screening Coordination and Operations	---	4,000
Office of the Under Secretary for Management:		
Under Secretary for Management	1,867	1,687
Office of Security	61,278	51,278
Business Transformation Office	2,208	1,880
Office of the Chief Procurement Officer	9,020	9,020
Office of the Chief Human Capital Officer:		
Salaries and expenses	8,996	8,900
MAX - HR System	53,000	30,000
Subtotal, Office of the Chief Human Capital Officer	61,996	38,900
Office of the Chief Administrative Officer:		
Salaries and expenses	40,731	40,000
Nebraska Avenue Complex (NAC-DHS Headquarters)	26,070	26,070
Subtotal, Office of the Chief Administrative Officer	66,801	66,070
Subtotal, Office of the Under Secretary for Management	203,170	168,835
Office of the Chief Financial Officer	19,765	19,405
Office of the Chief Information Officer:		
Salaries and expenses	75,756	75,756
Information technology services	110,944	83,444
Security activities	31,000	19,000
Wireless program	86,000	86,000
Homeland Secure Data Network (HSDN)	---	33,029
Subtotal, Office of the Chief Information Officer	303,700	297,229
Analysis and operations	311,180	255,495
Total, Departmental operations	974,855	824,373

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
Office of Inspector General		
Operating expenses	83,017	83,017
Total, title I, Departmental Management and Operations	1,057,872	907,390
TITLE II - SECURITY, ENFORCEMENT, AND INVESTIGATIONS		
U.S. Visitor and Immigrant Status Indicator Technology	---	340,000
Office of Screening Coordination and Operations:		
Management and administration	20,000	---
U.S. Visitor and Immigrant Status Indicator Technology	390,232	---
Secure Flight	94,294	---
FAST	7,000	---
NEXUS/SENTRI	14,000	---
Fee Funded Program:		
TWIC/TSA Credentialing	(100,000)	---
Registered Traveler	(20,000)	---
HAZMAT	(50,000)	---
Alien Flight School (By transfer)	(10,000)	---
Total, Office of Screening Coordination and Operations	(705,526)	---
Appropriations	(525,526)	---
(Fee funded programs)	(180,000)	---
Customs and Border Protection		
Salaries and expenses:		
Management and administration, border security inspections and trade facilitation	656,826	655,000
Management and administration, border security and control between port of entry	593,207	590,000
Subtotal, Headquarters management and admin	1,250,033	1,245,000
Border security inspections and trade facilitation:		
Inspections, trade, and travel facilitation at ports of entry	1,274,994	1,262,269
Harbor maintenance fee collection (trust fund)	3,000	3,000
Container security initiative	138,790	138,790
Other international programs	8,629	8,629
Customs trade partnership against terrorism/ Free and Secure Trade (FAST) NEXUS/SENTRI	54,268	75,268
Inspection and detection technology investments	188,024	63,024
Automated targeting systems	28,253	28,253
National Targeting Center	16,697	16,697
Other technology investments, including information technology	1,018	1,018
Training	24,351	24,351
Subtotal, Border security inspections and trade facilitation	1,738,024	1,621,299

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
Border security and control between ports of entry:		
Border security and control	1,464,989	1,742,977
Air program operations	57,971	---
Unmanned aerial vehicles	10,180	---
America Shield Initiative (ASI)	51,084	31,284
Training	22,203	22,203
Subtotal, Border security and control between ports of entry	1,606,427	1,796,464
Air and marine operations, personnel compensation and benefits	136,060	163,560
Subtotal, Salaries and expenses	4,730,544	4,826,323
Automation modernization:		
Automated commercial environment/International Trade Data System (ITDS)	321,690	320,000
Automated commercial system and legacy IT costs	136,319	136,000
Subtotal, Automation modernization	458,009	456,000
Air and marine interdiction, operations, maintenance, and procurement:		
Operations and maintenance	230,682	262,953
Unmanned aerial vehicles	---	10,180
Procurement	62,098	127,098
Subtotal, Air and marine interdiction, operations, maintenance, and procurement	292,780	400,231
Construction:		
Construction (Border patrol)	93,418	270,000
Total, Direct appropriations	5,574,751	5,952,554
Fee accounts:		
Immigration inspection user fee	(464,816)	(464,816)
Immigration enforcement fines	(6,403)	(6,403)
Land border inspection fee	(29,878)	(29,878)
COBRA passenger inspection fee	(334,000)	(334,000)
APHIS inspection fee	(204,000)	(204,000)
Puerto Rico collections	(97,815)	(97,815)
Small airport user fees	(5,234)	(5,234)
Subtotal, fee accounts	(1,142,146)	(1,142,146)
Total, Customs and Border Protection	(6,716,897)	(7,094,700)
Appropriations	(5,574,751)	(5,952,554)
(Fee accounts)	(1,142,146)	(1,142,146)
Immigration and Customs Enforcement		
Salaries and expenses:		
Headquarters Management and Administration (non-Detention and Removal Operations):		
Personnel compensation and benefits, service and other costs	277,572	123,600
Headquarters managed IT investment	134,571	133,104
Subtotal, Headquarters management and administration	412,143	256,704

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
Legal proceedings	---	130,181
Investigations:		
Operations	1,215,916	---
Training	17,932	---
Domestic	---	1,195,050
International	---	101,918
Subtotal, Investigations	1,233,848	1,296,968
Intelligence:		
Headquarters Reporting Center	4,988	---
Operations/Operations Center	56,834	---
Intelligence	---	50,970
Subtotal, Intelligence	61,822	50,970
Detention and removal operations:		
Custody management	600,160	---
Case management	166,277	---
Custody Operations	---	1,013,329
Fugitive operations	103,255	102,881
Institutional removal program	70,104	93,969
Alternatives to detention	33,406	28,497
Transportation and removal program	211,266	135,000
Subtotal, Detention and removal operations	1,184,468	1,373,676
Subtotal, Salaries and expenses	2,892,281	3,108,499
Federal protective service:		
Basic security	109,235	109,235
Building specific security (including capital equipment replacement/acquisition)	377,765	377,765
Subtotal	487,000	487,000
Offsetting fee collections	-487,000	-487,000
Automation modernization:		
ATLAS/CHIMERA IT connectivity	40,150	40,150
Construction	26,546	26,546
Total, Direct appropriations	2,958,977	3,175,195
Fee accounts:		
Immigration inspection user fee	(91,621)	(100,000)
Breached bond/detention fund	(71,260)	(87,000)
Student exchange and visitor fee	(66,552)	(66,552)
Subtotal, fee accounts	(229,433)	(253,552)
Subtotal, Immigration and Customs Enforcement (gross)	(3,675,410)	(3,915,747)
Offsetting fee collections	(-487,000)	(-487,000)
Total, Immigration and Customs Enforcement	(3,188,410)	(3,428,747)
Appropriations	(2,958,977)	(3,175,195)
(Fee accounts)	(229,433)	(253,552)

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
Transportation Security Administration		
Aviation security:		
Screener operations:		
Screener workforce:		
Privatized screening	146,151	139,654
Passenger screener - personnel, compensation, and benefits	1,590,969	1,520,000
Baggage screener - personnel, compensation, and benefits	931,864	884,000
Subtotal, Sceener workforce	2,668,984	2,543,654
Screening training and other:		
Passenger screeners, other	---	23,752
Baggage screeners, other	---	134,794
Screener training	91,004	88,004
Screener other	170,246	---
Subtotal, Screening training and other	261,250	246,550
Human resource services	207,234	207,234
Checkpoint support	157,461	165,000
EDS/ETD Systems:		
Purchase	130,000	175,000
Installation	14,000	45,000
Maintenance	200,000	200,000
Operation integration	23,000	23,000
Subtotal, EDS/ETD Systems	367,000	443,000
Subtotal, Screening operations	3,661,929	3,605,438
Aviation direction and enforcement:		
Aviation regulation and other enforcement	238,196	222,416
Airport management, IT, and support	758,370	686,032
FFDO and flight crew training	36,289	30,500
Air cargo	40,000	55,000
Airport perimeter security	---	5,000
Foreign repair stations	---	3,000
Subtotal, Aviation direction and enforcement	1,072,855	1,001,948
Subtotal, Aviation security (gross)	4,734,784	4,607,386
Offsetting fee collections	-3,670,000	-1,990,000
Total, Aviation security (net)	1,064,784	2,617,386
Surface transportation security:		
Surface transportation security staffing	24,000	---
Enterprise staffing	---	24,000
Hazardous materials truck tracking/training	---	4,000
Rail security inspectors and canines	8,000	8,000
Subtotal, Surface transportation security	32,000	36,000
Transportation Vetting and Credentialing:		
SecureFlight	---	56,696
Crew vetting	---	13,300
Screening administration and operations	---	5,000
Registered Traveler Program fees	---	(20,000)
TWIC fees	---	(100,000)
HAZMAT fees	---	(50,000)
Alien Flight School (by transfer from DOJ) - fees	---	(10,000)

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
Subtotal, Transportation Vetting and Credentialing (Gross)	---	(254,996)
Fee Funed Programs	---	(180,000)
Subtotal, Transportation Vetting and Credentialing (net)	---	74,996
Transportation security support:		
Intelligence	21,000	21,000
Administration:		
Headquarters administration	302,781	279,391
Mission support centers	3,051	---
Information technology	210,092	210,092
Corporate training	8,084	---
Subtotal, Administration	524,008	489,483
Subtotal, Transportation security support	545,008	510,483
Federal Air Marshals:		
Management and Administration	616,927	613,400
Travel and Training	71,933	70,800
Air-to-ground communications	---	2,000
Subtotal, Federal Air Marshals	688,860	686,200
Aviation security capital fund	(250,000)	(250,000)
Total, Transportation Security Administration (gross)	6,250,652	6,345,065
Offsetting fee collections	-3,670,000	-1,990,000
Aviation security capital fund	(250,000)	(250,000)
Fee accounts	---	(180,000)
Total, Transportation Security Administration (net)	2,330,652	3,925,065
United States Coast Guard		
Operating expenses:		
Military pay and allowances	3,011,130	3,004,818
Civilian pay and benefits	535,836	531,497
Training and recruiting	178,212	177,130
Operating funds and unit level maintenance	985,309	956,970
Centrally managed accounts	193,936	185,000
Intermediate and depot level maintenance	642,977	636,916
Subtotal, Operating expenses	5,547,400	5,492,331
Rescission (Port Security Assessments, PL 108-11)	---	-15,104
Less adjustment for defense function	-340,000	-1,200,000
Defense function	340,000	1,200,000
Subtotal, Operating expenses	5,547,400	5,477,227
Appropriations	(5,207,400)	(4,292,331)
Rescissions	---	(-15,104)
Defense function	(340,000)	(1,200,000)
Environmental compliance and restoration	12,000	12,000

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
Reserve training	119,000	119,000
Acquisition, construction, and improvements:		
Vessels:		
Response boat medium (41ft UTB and NSB replacement)	22,000	18,500
Aircraft:		
Armed helicopter equipment (Phase I) (legacy asset)	19,902	10,000
Covert surveillance aircraft	---	10,000
C-130J Missionization	5,000	---
Subtotal, Aircraft	24,902	20,000
Other equipment:		
Automatic identification system	29,100	24,000
National distress and response system modernization (Rescue 21)	101,000	41,000
HF Recap	10,000	---
Subtotal, Other equipment	140,100	65,000
Personnel compensation and benefits:		
Core acquisition costs	500	500
Direct personnel cost	75,950	73,000
Subtotal, Personnel compensation and benefits	76,450	73,500
Integrated deepwater systems:		
Aircraft:		
Aircraft, other	125,900	156,000
HH-65 re-engining	133,100	133,100
Subtotal, Aircraft	259,000	289,100
Surface ships	522,400	509,200
C4ISR	74,400	44,000
Logistics	25,200	18,800
Systems engineering and integration	45,000	37,000
Government program management	40,000	35,000
Subtotal, Integrated deepwater systems	966,000	933,100
Shore facilities and aids to navigation:		
Shore operational and support projects	5,000	---
Shore construction projects	3,000	---
Renovate USCGA Chase Hall Barrack, Phase I	15,000	15,000
Replace multi-purpose building - Group Long Island Sound	10,000	10,000
Construct breakwater - Station Neah Bay	2,800	2,800
Waterways aids to navigation infrastructure	3,900	3,900
Subtotal, Shore facilities and aids to navigation	39,700	31,700
Subtotal, Acquisition, construction, and improvements (net)	1,269,152	1,141,800
Alteration of bridges	---	15,000
Research, development, test, and evaluation	---	17,750
Subtotal, U.S. Coast Guard discretionary	6,947,552	6,782,777
Retired pay (mandatory)	1,014,080	1,014,080

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
Total, United States Coast Guard	7,961,632	7,796,857
Appropriations	(7,961,632)	(7,811,961)
Rescissions	---	(-15,104)
United States Secret Service		
Salaries and expenses:		
Protection:		
Protection of persons and facilities	572,232	576,316
National special security event fund	5,000	2,500
Protective intelligence activities	55,561	56,215
White House mail screening	16,365	16,365
Subtotal, Protection	649,158	651,396
Field operations:		
Domestic field operations	238,888	238,888
International field office administration, operations and training	19,768	20,968
Electronic crimes special agent program and electronic crimes task forces	35,600	39,600
Subtotal, Field operations	294,256	299,456
Administration:		
Headquarters, management and administration	203,232	203,232
National Center for Missing and Exploited Children	7,100	7,889
Subtotal, Administration	210,332	211,121
Training:		
Rowley training center	46,337	46,337
Subtotal, Salaries and expenses	1,200,083	1,208,310
Acquisition, construction, improvements and related expenses (Rowley training center)	3,699	3,699
Total, United States Secret Service	1,203,782	1,212,009
Total, title II, Security, Enforcement, and Investigations:		
New budget (obligational) authority	20,555,320	22,401,680
Appropriations	(20,555,320)	(22,416,784)
Rescission	---	(-15,104)
Fee Accounts	(1,551,579)	(1,575,698)
TITLE III - PREPAREDNESS AND RECOVERY		
Preparedness		
Preparedness operations:		
Office of the Under Secretary	17,836	---
Office of the Chief Medical Officer	2,000	---
Office of National Capital Region Coordination	1,072	---
Infrastructure Protection and Information Security		
Critical infrastructure outreach and partnership	81,860	---

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
Critical infrastructure identification and evaluation	89,593	---
National Infrastructure Simulation and Analysis Center	17,635	---
Biosurveillance	12,817	---
Protective actions	108,076	---
Cyber security	83,086	---
National Security/Emergency Preparedness Telecommunications	163,250	---
Subtotal, Infrastructure Protection and Information Security	556,317	---
Subtotal, Preparedness operations	577,225	---
Management and administration:		
Office of the Under Secretary	---	13,187
Office of the Chief Medical Officer	---	2,000
Office of National Capital Region Coordination	---	892
Subtotal, management and administration	---	16,079
Office for Domestic Preparedness:		
Salaries and expenses	44,300	5,000
State and Local Programs:		
State Homeland Security Grant Program:		
State and Local Basic Formula Grants	1,020,000	550,000
Emergency management performance grants	170,000	---
Citizen Corps	50,000	---
Subtotal, State Homeland Security Grant Program	1,240,000	550,000
Law enforcement terrorism prevention grants	---	400,000
Urban Area Security Initiative:		
High-threat, high-density urban area	1,020,000	765,000
Targeted infrastructure protection	600,000	---
Buffer zone protection program	---	50,000
Port security grants	---	175,000
Rail and transit security	---	150,000
Trucking security grants	---	5,000
Intercity bus security grants	---	10,000
Subtotal, Urban Area Security Initiative	1,620,000	1,155,000
Commerical equipment direct assistance program	---	50,000
National Programs:		
National Domestic Preparedness Consortium	80,000	145,000
National exercise program	52,000	52,000
Technical assistance	7,600	20,000
Metropolitan Medical Response System	---	30,000
Demonstration training grants	---	30,000
Continuing training grants	3,010	25,000
Citizen Corps	---	20,000
Evaluations and assessments	14,300	14,300
Rural Domestic Preparedness Consortium	---	10,000
Subtotal, National Programs	156,910	346,300
Subtotal, State and Local Programs	3,016,910	2,501,300

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
Fire Assistance Grants:		
Grants	500,000	545,000
Staffing for Adequate Fire and Emergency Response (SAFER) Act	---	110,000
Subtotal, Firefighter Assistance Grants	500,000	655,000
Emergency management performance grants	---	185,000
Subtotal, Office for Domestic Preparedness	3,561,210	3,346,300
Radiological Emergency Preparedness Program	-1,266	-1,266
U.S. Fire Administration and Training:		
United States Fire Administration	40,441	40,441
Noble Training Center	4,507	4,507
Subtotal, U.S. Fire Administration and Training	44,948	44,948
Infrastructure Protection and Information Security		
Management and administration	---	83,342
Critical infrastructure outreach and partnership	---	112,177
Critical infrastructure identification and evaluation	---	68,500
National Infrastructure Simulation and Analysis Center	---	20,000
Biosurveillance	---	14,100
Protective actions	---	91,399
Cyber security	---	93,349
National Security/Emergency Preparedness Telecommunications	---	142,632
Subtotal, Infrastructure Protection and Information Security	---	625,499
Total, Preparedness	4,182,117	4,031,560
Counterterrorism Fund		
Counterterrorism fund	10,000	2,000
Federal Emergency Management Agency		
Administrative and regional operations	170,240	173,240
Defense function	48,000	48,000
Subtotal, Administrative and regional operations	218,240	221,240
Preparedness, mitigation, response and recovery:		
Operating activities	188,058	184,058
Urban search and rescue teams	7,000	20,000
Subtotal, Preparedness, mitigation, response and recovery	195,058	204,058
Public health programs:		
National disaster medical system	34,000	34,000
Disaster relief	2,140,000	1,770,000
Disaster assistance direct loan program account:		
(Limitation on direct loans)	(25,000)	(25,000)

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
Administrative expenses	567	567
Flood map modernization fund	200,068	200,000
National flood insurance fund:		
Salaries and expenses	36,496	36,496
Severe reptitive loss mitigation	---	40,000
Repetitive loss mitigation	---	10,000
Flood mitigation	87,358	99,358
Offsetting fee collections	-123,854	-185,854
(Transfer to National flood mitigation fund)	(-28,000)	(-40,000)
National flood mitigation fund (by transfer)	(28,000)	(40,000)
National pre-disaster mitigation fund	150,062	50,000
Emergency food and shelter	153,000	153,000
Total, FEMA (net)	3,090,995	2,632,865
Total, title III, Preparedness and Recovery:		
New budget (obligational) authority	7,283,112	6,666,425
(Limitation on direct loans)	(25,000)	(25,000)
(Transfer out)	(-28,000)	(-40,000)
(By transfer)	(28,000)	(40,000)

TITLE IV - RESEARCH, DEVELOPMENT, TRAINING, AND SERVICES

U.S. Citizenship and Immigration Services

Backlog reduction initiative:		
Contracting services	70,000	70,000
Other	10,000	10,000
Digitization and IT transformation	---	35,000
Subtotal, Backlog reduction initiative	80,000	115,000
Adjudication services (fee account):		
Pay and benefits	(607,000)	(657,000)
District operations	(389,000)	(349,000)
Service center operations	(260,000)	(250,000)
Asylum, refugee and international operations	(74,000)	(74,000)
Records operations	(66,000)	(66,000)
Subtotal, Adjudication services	(1,396,000)	(1,396,000)
Information and customer services (fee account):		
Pay and benefits	(80,000)	(80,000)
Operating expenses:		
National Customer Service Center	(47,000)	(47,000)
Information services	(14,000)	(14,000)
Subtotal, Information and customer services	(141,000)	(141,000)
Administration (fee account):		
Pay and benefits	(44,000)	(44,000)
Operating expenses	(193,000)	(193,000)
Subtotal, Administration	(237,000)	(237,000)
Total, U.S. Citizenship and Immigration Services	(1,854,000)	(1,889,000)
Appropriations	(80,000)	(115,000)
(Immigration Examination Fee Account)	(1,730,000)	(1,730,000)
(Fraud prevention and detection fee account)	(31,000)	(31,000)

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
(H1B Non-Immigrant Petitioner fee account)..	(13,000)	(13,000)
Federal Law Enforcement Training Center		
Salaries and expenses:		
Salaries and expenses.....	183,362	194,000
Acquisition, Construction, Improvements, and Related expenses:		
Direct appropriation.....	40,636	88,358
Total, Federal Law Enforcement Training Center..	223,998	282,358
Science and Technology		
Management and administration:		
Office of the Under Secretary for Science and Technology.....	---	6,479
Other salaries and expenses.....	81,399	74,620
Subtotal, Management and administration.....	81,399	81,099
Research, development, acquisition, and operations:		
Biological countermeasures:		
Operating expenses.....	23,300	23,300
Defense function.....	339,000	356,700
Subtotal, Biological countermeasures.....	362,300	380,000
Chemical countermeasures.....	102,000	95,000
Explosives countermeasures.....	14,700	44,000
Threat and vulnerability, testing and assessment..	47,000	43,000
Conventional missions in support of DHS.....	93,650	80,000
Rapid prototyping program.....	20,900	35,000
Standards.....	35,500	35,000
Emerging threats.....	10,500	8,000
Critical infrastructure protection.....	20,800	40,800
University programs/homeland security fellowship..	63,600	63,000
Counter MANPADs.....	110,000	110,000
Safety act.....	5,600	7,000
Cyber security.....	16,700	16,700
Office of interoperability and compatibility.....	20,500	26,500
Research and development consolidation.....	116,897	99,897
Radiological and nuclear countermeasures.....	19,086	19,086
Domestic Nuclear Detection Office.....	227,314	318,014
Subtotal, Research, development, acquisition, and operations.....	1,287,047	1,420,997
Total, Science and Technology.....	1,368,446	1,502,096
Total, title IV, Research and Development, Training and Services:		
New budget (obligational) authority.....	1,672,444	1,899,454
Fee Accounts.....	(1,774,000)	(1,774,000)
TITLE V - GENERAL PROVISIONS		
Sec. 527:		
Rescission, 110-to-123 Conversions (P.L.108-11, P.L. 108-90 and P.L. 108-334).....	---	-78,631

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
110ft Island Class Patrol Boat procurement or refurbishment	---	78,631
Sec 538: REAL ID Grants	---	40,000
Rescissions, sec. 542 through 546:		
Sec. 542: Working Capital Fund	---	-15,000
Sec. 543: Transportation Security Administration aviation security (P.L. 108-34)	---	-5,500
Sec. 544: Coast Guard operating expenses and acquisition, construction, and improvements (P.L 105-277, 106-69, 107-87, and 108-90)	---	-6,369
Sec. 545: Counterterroism Fund (P.L. 108-90)	---	-8,000
Sec. 546: Science and technology research, development, acquisition, and operations (P.L. 108-334)	---	-20,000
Subtotal, Rescissions, sec. 542 through 546	---	-54,869
Total, title V, General Provisions:		
New budget (obligational) authority	---	-14,869
Grand total, Department of Homeland Security:		
New budget (obligational) authority	30,568,748	31,860,080
Appropriations	(30,568,748)	(32,008,684)
Rescissions	---	(-148,604)
Fee funded programs	(3,325,579)	(3,349,698)
(Limitation on direct loans)	(25,000)	(25,000)
(Transfer out)	(-28,000)	(-40,000)
(By transfer)	(28,000)	(40,000)

CONFERENCE TOTAL—WITH COMPARISON

The total new budget (obligational) authority for the fiscal year 2006 recommended by the Committee of Conference, with comparisons to the fiscal year 2005 amount, the 2006 budget estimates, and the House and Senate bills for 2006 follow:

[in thousands of dollars]

New budget (obligational) authority, fiscal year 2005	$100,210,103
Budget estimates of new (obligational) authority, fiscal year 2006	30,568,748
House bill, fiscal year 2006	31,860,080
Senate bill, fiscal year 2006	33,360,080
Conference agreement, fiscal year 2006	31,860,080
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 2005	−68,350,023
budget estimates of new (obligational) authority, fiscal year 2006	+1,291,332
House bill, fiscal year 2006	+0
Senate bill, fiscal year 2006	−1,500,000

HAROLD ROGERS,
ZACH WAMP,
TOM LATHAM,
JOANN EMERSON,
JOHN E. SWEENEY,
JIM KOLBE,
ERNEST J. ISTOOR, JR.,
RAY LAHOOD,
ANDER CRENSHAW,
JOHN R. CARTER,
JERRY LEWIS,
MARTIN OLAV SABO,
DAVID E. PRICE,
JOSE E. SERRANO,
LUCILLE ROYBAL-ALLARD,
SANFORD D. BISHOP,
CHET EDWARDS,
Managers on the Part of the House.

JUDD GREGG,
THAD COCHRAN,
TED STEVENS,
ARLEN SPECTER,
PETE DOMENICI,
RICHARD C. SHELBY,
LARRY CRAIG,
ROBERT F. BENNETT,
WAYNE ALLARD,
ROBERT C. BYRD,
DANIEL K. INOUYE,
PATRICK J. LEAHY,
BARBARA A. MIKULSKI,
HERB KOHL,
HARRY REID,
DIANNE FEINSTEIN,
Managers on the Part of the Senate.

LEGISLATIVE PROGRAM

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

Mr. HOYER. Mr. Speaker, I yield to the gentleman from Missouri (Mr. BLUNT), the leader, for the purpose of informing us of the schedule for the week to come.

Mr. BLUNT. Mr. Speaker, I thank the gentleman from Maryland for yielding to me, and while I am the temporary majority leader, I am still the whip and always am glad to be called the whip and to refer to the gentleman as the whip.

Mr. Speaker, the House will convene Thursday at 10 a.m. for legislative business. We will consider several measures under suspension of the rules, and a final list of those bills will be sent to Members by the end of this week.

We will also consider two measures under a rule, H.R. 2360, the Department of Homeland Security Appropriations Act for fiscal year 2006, and the Gasoline for America's Security Act of 2005.

Mr. HOYER. Mr. Speaker, I thank the distinguished majority whip and acting leader.

Mr. Leader, so that Members can be certain as to the schedule for next Thursday and Friday, on Thursday the House will begin business at 10 a.m., I understand, with no votes to occur before 2 p.m., and we will consider suspension bills and the conference report on the Homeland Security appropriations bill, and then the House will meet on Friday at 9 a.m. to consider the energy bill. Is that accurate?

Mr. BLUNT. If the gentleman will continue to yield, that is accurate at this point. We have not finalized the absolute sequence of bills, but that is our plan at this time. And the one reason we are starting at 10 a.m. on Thursday is to try to finish our work, even though it is an abbreviated workweek, in a reasonable amount of time.

Mr. HOYER. Reclaiming my time and thanking the gentleman, Mr. Speaker, if the gentleman could tell us, because we have discussed with our Members from California, from Washington State, Oregon, and others, if they take a 7:40 a.m. plane, they do not get here much before 4 or a little after 4. Therefore, if those votes are started at 2 p.m., that requires some of our Members to leave the night before.

Some of our Members, as you know, because of their religious observance, cannot leave until after sundown, requiring them to take the red-eye. I discussed this with the gentleman from Texas (Mr. DELAY) last week, and I am wondering whether or not, because I am sure Members on your side, well, I guess they do not, now that I think about it, have similar problems. But the fact of the matter is that it causes some difficulty for our Members traveling. I wonder if there is a possibility of starting at 10, continuing debate, but rolling votes until after 5 rather than after 2.

Mr. BLUNT. I think the gentleman did have extensive discussion on this last week. I know this week really created a number of challenges for us because of those religious holidays. I believe we have accommodated those in the best way we can and still get Members out of here at a reasonable hour on Friday. And for that reason I think those votes that could be as early as 2 are important in our efforts to get Members on the road Friday.

And, again, our California Members always have so many of the challenges in travel, but I think this plan accommodates that. I certainly wish we could have perhaps not even come in for these days, but I think the work we have to do on these 2 days is so significant that we do need to come back. And if we do not get started early on Thursday, we will have another problem on Friday with Members who want to get back for what turns out to be a holiday weekend for many of them.

Mr. ABERCROMBIE. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Hawaii.

Mr. ABERCROMBIE. When we talk about all the Members from California, occasionally some Members there think the western-most county is Hawaii, of California, but I think those of us either from California, the far west in general, and even further west, out in Hawaii, have seldom, if ever, complained about having to make the votes in late afternoon on a Monday or a Tuesday or a Thursday or whatever. But I would just plead for this, and I appreciate the gentleman's yielding to me, but if the gentleman could give those of us west of the Mississippi the opportunity to come and vote, say after 4:30, or about 4:30 or 5, we can do it.

Other than that, it really changes the entire day and night, in my instance the night before, because I come directly from the plane to vote, and many Members of the California, Oregon, Washington, and even some of the other western States who have interconnections they have to make north and south before they come east have to do that.

That is the only reason we ask about that. Maybe we could start a little earlier on Friday and still accommodate what needs to be done. But it is not self-indulgent, it is really a practical question of scheduling.

Mr. HOYER. Reclaiming my time, Mr. Speaker, I thank the gentleman for his comments, and perhaps the gentleman and I can discuss this after the colloquy.

Mr. BLUNT. Mr. Speaker, I would be glad to discuss it further. At the same time, I do think that this particular week and the way the holidays fell in this week have created a unique set of circumstances, and our planning for those have been a challenge, there is no question about that.

Mr. HOYER. I appreciate those problems. Perhaps we will discuss that. I

believe that starting at 10 makes sense. I understand we want to use all of the time that is available that day, so I am not suggesting that we change that. It is the time when we start votes, and then I am sure there will be a series of votes at some point in time that evening, as we have every Tuesday when we return at night.

But perhaps we can discuss it a little further after the colloquy, and then perhaps, if there is any change, inform Members of that change.

Regarding the energy bill, under what type of rule would the gentleman expect that to be considered; and how late would the gentleman expect votes to go on Friday? First of all, the energy bill and the kind of rule the gentleman expects on the energy bill.

And I say that to my friend in the context, as the gentleman knows, that the bill was introduced Monday of this week. It is my understanding there were 16 hours of markup yesterday, going until 1 a.m. this morning. So there has been little time, really, to review this bill.

Obviously, there will be over the week, and we will not get back until Thursday, so there will be that time. But can the gentleman tell us what kind of rule he might expect on that bill? I yield to my friend.

Mr. BLUNT. I appreciate the gentleman yielding, and I appreciate the question. In fact, I serve on that committee and that committee was voting until after midnight last night.

The bill is available and will be available for Members to look at during the week. In terms of the rule, we will have to defer that, I think, to the Committee on Rules, and I expect they will go through their normal evaluation of the bill and determine the rule at that time.

In terms of Friday, we are really trying to move to the earliest possible conclusion on Friday, which is one of the reasons, again, to try to be sure we are getting our work done on Thursday. Another reason for Thursday, not only the 10 a.m. start but the effort for Members to return, is I know a number of chairmen are hoping to take advantage of that day in their committees as well. And our friends from the west coast would want to be and I hope are able to be part of that.

Mr. HOYER. I thank the gentleman for that information, and I am sure the Members will be pleased about that objective as well.

The week of October 17. I know that is some time away, but we will not be having a scheduling colloquy next Friday, probably. Can you give us any indication as to what bills may be on the floor?

Mr. BLUNT. We have not finalized our plan for the week of October 17 yet, Mr. Speaker, but there are a number of litigation reform bills coming out of the Judiciary Committee. I think those are likely candidates for that week, and there may be some other legislation develop. But those bills from the Committee on the Judiciary are likely to be ready and be coming to the floor that week.

Mr. HOYER. Mr. Speaker, I thank the gentleman for that information.

APPOINTMENT OF HON. MAC THORNBERRY TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH OCTOBER 6, 2005

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

THE SPEAKER'S ROOMS,
HOUSE OF REPRESENTATIVES,
Washington, DC, September 29, 2005.

I hereby appoint the Honorable MAC THORNBERRY to act as Speaker pro tempore to sign enrolled bills and joint resolutions through October 6, 2005.

J. DENNIS HASTERT,
Speaker of the House of Representatives

The SPEAKER pro tempore (Mr. THORNBERRY). Without objection, the appointment is approved.

There was no objection.

APPOINTMENT OF MEMBERS TO CANADA-UNITED STATES INTERPARLIAMENTARY GROUP

The SPEAKER pro tempore. Pursuant to 22 U.S.C. 276d, 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 Canada-United States Interparliamentary Group in addition to Mr. MANZULLO of Illinois, Chairman, and Mr. MCCOTTER of Michigan, Vice Chairman, appointed on March 8, 2005:

Mr. OBERSTAR, Minnesota
Mr. SHAW, Florida
Ms. SLAUGHTER, New York
Mr. STEARNS, Florida
Mr. ENGLISH, Pennsylvania
Mr. SOUDER, Indiana
Mr. TANCREDO, Colorado
Mr. LIPINSKI, Illinois

NOTIFICATION TO CONGRESS REGARDING PROPOSED USE OF PUBLIC SAFETY FUNDS PROVIDED TO DISTRICT OF COLUMBIA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 109–58)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed:

The SPEAKER pro tempore laid before the House the following message

To the Congress of the United States:

Consistent with title I of the District of Columbia Appropriations Act, 2005, Public Law 108–335, I am notifying the Congress of the proposed use of $10,151,538 provided in title I under the heading ''Federal Payment for Emergency Planning and Security Costs in the District of Columbia.'' This will reimburse the District for the costs of public safety expenses related to security events and responses to terrorist threats.

The details of this action are set forth in the enclosed letter from the Director of the Office of Management and Budget.

GEORGE W. BUSH.
THE WHITE HOUSE, *September 29, 2005.*

IN HONOR OF CONGRESSMAN TOM DELAY

(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, I rise today in strong support of the gentleman from Texas (Mr. DELAY).

Congressman TOM DELAY has been one of the most effective leaders in the history of the House of Representatives. Under his leadership, over 4 million Americans have found new jobs, Medicare beneficiaries have gained prescription drug coverage, and U.S. troops have received unprecedented support to protect American families. I am proud of his accomplishments and grateful for his service.

While Congressman DELAY's effectiveness has greatly helped American families, it has unfortunately motivated his critics. By issuing an indictment yesterday against Mr. DELAY, liberal Democrat Ronnie Earle is demonstrating politics at its worst by politicizing his position as prosecutor and is continuing his personal vendetta against Republican leaders.

In 1994, Earle indicted U.S. Senator Kay Bailey Hutchison, and his charges were proved false. I am confident that Congressman DELAY will also be vindicated from this blatant partisan attack.

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

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will recognize Members for Special Order speeches without prejudice to the possible resumption of legislative business.

□ 1745

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. THORNBERRY). 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.

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.)

CONGRATULATING ST. MARY'S COLLEGE OF MARYLAND

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. HOYER) is recognized for 5 minutes.

Mr. HOYER. Mr. Speaker, one of the biggest cliches in sports is that you do not want your team to be number two.

However, the same does not hold true in other areas. That is why today I want to congratulate the entire St. Mary's College of Maryland community, including the students, alumni and parents and President Margaret O'Brien and the extraordinary faculty, for being ranked the number two public liberal arts college in the Nation.

Mr. Speaker, it will surprise no one that St. Mary's College is in my district. Furthermore, for full disclosure, I am on the board of trustees of St. Mary's College. It is an extraordinary institution of higher learning.

In fact, according to the latest college rankings by the magazine U.S. News and World Report, St. Mary's College is again one of the top 100 liberal arts colleges in the Nation, rising to 84 from 87 the year before. So not only is it number two of small colleges; it is number 84 in the entire Nation of all colleges.

When it comes to public liberal arts colleges, St. Mary's finished only behind the Virginia Military Institute in the U.S. News rankings.

Those rankings are based upon several criteria of academic excellence, including graduation and retention rates, faculty resources and peer assessment.

And this year, St. Mary's peer assessment rose to 2.9 out of a possible 5.0, and the freshmen retention rate rose to 88 percent.

Mr. Speaker, with roots going back to 1840, St. Mary's College is the State of Maryland's only public honors college, offering the academic excellence of a top private college with the openness and affordability of public education.

Today, about 1,950 men and women from 35 States and 23 countries attend St. Mary's, and the average SAT score for the entering freshmen is 1,252. The faculty also has distinguished itself, and more than 94 percent hold doctorate degrees.

By combining the virtues of public and private education, St. Mary's provides a unique alternative for students and their families. This special identity underpins the college's success and its reputation for excellence, in a waterfront setting in the heart of the Chesapeake Bay region just 70 miles southeast of Washington. It is an extraordinarily beautiful setting for an extraordinarily excellent college.

Mr. Speaker, as a member of the college's board of trustees since 1995, I have seen this wonderful institution flourish over the last decade, and I am particularly pleased to see St. Mary's is winning national recognition among it peers. This is not the first time that has been the case, but it is a continuing affirmation of the excellence at St. Mary's.

Our 34th President, John F. Kennedy, once said: ''Education is the mainspring of our economic and social progress. It is the highest expression of achievement in our society, ennobling and enriching human life.''

Mr. Speaker, St. Mary's College of Maryland truly enriches southern Maryland and our entire State. I want to congratulate the entire St. Mary's College community on receiving this latest national recognition. Well done, well deserved.

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.)

ORDER OF BUSINESS

Mr. STUPAK. Mr. Speaker, I ask unanimous consent to give my Special Order speech at this time.

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

There was no objection.

PRICE GOUGING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. STUPAK) is recognized for 5 minutes.

Mr. STUPAK. Mr. Speaker, I would like to talk about the markup we had last night in the Committee on Energy and Commerce on the energy bill. The purpose of the energy bill being brought forth by the Republican majority is to address price gouging. We would like to see the price of gasoline go down; and certainly with the excessive profits being demonstrated by the oil companies, especially the refinery companies, we have to do something instead of being gouged at the gas pump.

So last night the committee worked some 16 hours, until well after midnight. What we found was this. This chart was in The Washington Post last Sunday. The price of a gallon of gas in 1 year, the price to take it out of the ground, domestic and foreign countries pump crude from the ground, has increased 46 percent in 12 months.

The refiners, refineries process crude oil and a variety of products, including gasoline. In 1 year, their profit or their increase is 255 percent.

Down here are the distributors. They ship the gasoline from the terminal by truck to the gas station. Their cost has only gone up 5 percent. The end result is in the last 12 months, gas has gone up 64 percent for the American consumer. Even State, Federal, and local taxes have only gone up 2 pennies, a negligible increase.

When Members look at the chart, if we want to try to control the price of gasoline, you have to look at the crude oil producers and definitely the refiners at a 255 percent increase in their costs and price to a gallon of gas in the last 12 months.

So what happened last night in committee?

The Democrats said let us take a look at the Republican bill that we just saw. What they did was this, and we almost defeated it. It was a 26–24 vote. We lost by two votes. It is a bill we will be discussing next week on the floor.

The Republicans said we are not going to go after the producers; they can make a 46 percent profit in 12 months. We are not going to go after the refiner; they can make a 255 percent increase profit in 12 months. We are going after the gas station dealer, the one at 5 percent. If they increase their profits more than 10 percent, we are going after the gas station operators, but not all gas station operators, only ones located in the area where the President has declared a disaster.

The Republican bill basically says this, we have two disasters in this country, Hurricane Katrina and Hurricane Rita. So parts of Texas, Alabama, Mississippi and Louisiana, they cannot increase their price for gasoline. But the rest of the Nation and north Louisiana, north Alabama, north Mississippi and north and west Texas, they can still increase their prices, no control. They can gouge 255 percent, 46 percent and that is okay under our bill. We are only concerned about the gas station owner who has the least amount to say about the cost of a gallon of gas.

So once again Big Oil wins out. Big refineries win out, and the poor person trying to make a penny off a gallon of gas at the gas station is going to get nailed by the majority party's legislation.

The Democratic side has our legislation, Free Us From Price Gouging. In our bill we apply all of the way down the chain here every type of oil product: home heating oil, propane, natural gas, gasoline. It all comes under our price gouging legislation. We apply it to producers, refiners, and retailers. We take them all into consideration. We apply our price gouging to the entire Nation.

This winter the Midwest is going to pay a 71 percent increase in the price of natural gas. Underneath the Republican bill, there is nothing you can do about it because it only applies to gasoline and diesel. Under the Democratic bill, we can see if there is excessive profits, then you have a right to do something about price gouging.

Under the Democrats' bill, we are going to have the FTC define what

price gouging is and what factors go into it and then apply it to the facts of this case. We are after excessive profits like 255 percent in 12 months or 46 percent in 12 months, not the person who makes 5 percent in 12 months. And we want it to apply throughout the Nation, not just at the time of disaster and in the area affected by the disaster.

We provide the FTC with the right and authority to watch market manipulation. The majority party is silent on that fact.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. POE) is recognized for 5 minutes.

(Mr. POE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

(Mr. BROWN of Ohio addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. MCHENRY) is recognized for 5 minutes.

(Mr. MCHENRY addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

ORDER OF BUSINESS

Ms. WOOLSEY. Mr. Speaker, I ask unanimous consent to address the House out of order.

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

There was no objection.

IRAQ AND PRISONER ABUSE

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, 8 months ago standing outside this dome, the President of the United States spoke these words as he was sworn in for a second term: ''We will persistently clarify the choice before every ruler and every nation, the moral choice between oppression, which is always wrong, and freedom which is eternally right. All who live in tyranny and hopelessness can know the United States will not ignore your oppression or excuse your oppressors.''

Beautiful words, honorable sentiments, if only the Bush administration were conducting this war in Iraq in a way that actually reflects those values.

Last week, Human Rights Watch released a report that details once again how Iraqi war prisoners were subjected to acts of sadistic cruelty at the hands of their supposed liberators. This time it was at Forward Operating Base Mercury, where beatings and other forms of humiliation took place on a daily basis for several months. Often, this was not even about interrogation or securing some vital piece of national security. ''In a way, it was sport,'' said one sergeant in the 82nd Airborne, a way to ''work out your frustration.''

□ 1800

What is perhaps most tragic is that our soldiers who have committed these acts are themselves victims as well, victimized by their incompetent and amoral superiors who give a wink and a nod to torture and then blame it on a few bad apples. One officer in the 82nd Airborne, Captain Ian Fishback, was appalled by the prisoner abuse and tried in vain for a year and a half to get some clarification from his superiors about how prisoners should be treated, given that the administration had essentially tossed the Geneva Conventions in the trash can. He got no answers because the Pentagon seemed to want the abuse to continue but did not want to take any responsibility for it.

That is how it works with this crowd: The powerless take the fall while the high-level decisionmakers who make bad decisions are left in place to make more bad decisions. So it is that Lynndie England faces jail time for her conduct at Abu Ghraib while Tommy Franks gets the Presidential Medal of Freedom.

The prisoner abuse episode is consistent with everything else about the way this war has been handled. It indicates both a moral blind spot and a staggering incompetence that has cost nearly 2,000 Americans their lives. The Bush administration had no plan for how to conduct this war, they had no plan for securing the country once Saddam was deposed, and now they have no plan for ending the war. We need a compassionate and we need a viable exit strategy, one that ends the occupation but still gives us a constructive role in the rebuilding of Iraqi society. If the President will not do it, we will. If the President will not lead, we will.

Two weeks ago, I held an informal bipartisan hearing to discuss plans to withdraw our troops and end the war. We heard from a panel of Middle East experts and military strategists, just the kind of people George Bush should have listened to along his march to war, all of whom testified about the need for a change in U.S. policy in Iraq. The hearing was not about endorsing one particular approach. My goal was to put ideas on the table, to start a conversation that the Nation wants and the Nation deserves. Two-thirds of the American people disapprove of the President's handling of Iraq, and yet it has been some sort of taboo around this place to discuss troop withdrawal. The American people are way ahead of Congress on this. It is about time we caught up, it is about time we realized

RESPONSE TO SECRETARY BENNETT'S COMMENTS

The SPEAKER pro tempore (Mr. WESTMORELAND). Under a previous order of the House, the gentlewoman from California (Ms. PELOSI) is recognized for 5 minutes.

Ms. PELOSI. Mr. Speaker, this evening I rise to express my deep disdain and disgust for comments made yesterday on his radio show by former Secretary of Education William Bennett.

He said, and I quote, ''You could abort every black baby in this country and your crime rate would go down. That would be an impossible, ridiculous, and morally reprehensible thing to do, but your crime rate would go down.''

These are shameful words, Mr. Speaker. I am appalled to have to say them on the floor of the House of Representatives. Secretary Bennett's words reflect a narrow-minded spirit that has no place within American discourse. These words do not reflect the values of hope and opportunity for the future, they do not reflect the values of the American people, Democrat or Republican. Secretary Bennett does not reflect American mainstream values; he did not when he was Secretary of Education and he does not now. Leaders are called to higher standards than Secretary Bennett has demonstrated. We have a responsibility to lead, to be an example.

As Americans feel the pain of two hurricanes, as Americans still reel from questions about the role that race and poverty played in the government response to these devastating hurricanes, we must stand sentry against any hint of racism, any indication of injustice, any moment of intolerance. Now is not the time for divisive comments, now is the time for coming together, now is the time for healing.

What could possibly have possessed Secretary Bennett to say those words, especially at this time? What could he possibly have been thinking? This is what is so alarming about his words.

I urge President Bush to renounce his statement, and I call on Secretary Bennett to apologize. I encourage my Republican colleagues to join me on the House floor to reject these words and to speak for a future of tolerance and equality. I invite Secretary Bennett and other Republicans to join Democrats in creating solutions to national problems and meeting national needs. It is very sad, because children do study the words that are said on the floor of the House of Representatives, and these words are very shameful.

But words are shameful, too, that deny children the education they need, the health care they deserve, economic security for their families, a clean environment where they have clean air and clean water and safe food to eat; and when we deprive them of that we are insulting them, but these words are a direct hit at them. Secretary Bennett is a writer. He knows that words have

power. He knows how powerful these particular words are. An apology is definitely in order, and a rejection of these remarks also is in order from the President of the United States.

KATRINA UNEARTHS DISASTROUS FISCAL STATE OF COUNTRY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. SCHIFF) is recognized for 5 minutes.

Mr. SCHIFF. Mr. Speaker, almost a year ago, I spoke on this House floor warning of the dangers posed by the latest effort of the majority party to raise the debt limit for the third time during this administration to a whopping $8.18 trillion.

I used the occasion to contrast the fiscal policies of the Clinton administration, namely, turning the largest budget deficits in history to the largest budget surpluses in history, with the fiscal policies of the current administration. However, my protestations and the warnings of my fellow Blue Dog Democrats continued to fall on deaf ears.

It is inconceivable that deficits soaring as far as the eye can see, mounting debt, and the skyrocketing costs of military operations in Iraq and Afghanistan would be ignored for so long and that it would take a tragedy such as Hurricane Katrina to finally serve as a wakeup call. For years members of the Blue Dog Coalition have warned that we were spending money we did not have, that the administration had no economic plan, and that massive untargeted tax cuts were not a substitute for an economic blueprint for our country's future. And yet the Congress continued to reject every proposal requiring us to do our budget in the same way that our constituents do, by paying as we go.

Now that Hurricanes Katrina and Rita have wreaked havoc on the gulf coast, causing hundreds of billions of dollars of damage, it is clear that we must take immediate action to get our fiscal house in order. Members on the other side of the aisle have finally acknowledged what Democrats have been saying for years, that our current economic policies cannot be maintained. Unfortunately, however, some in the majority party have proposed that we ask those Americans who have been impacted most by Katrina, namely, the elderly and those with low incomes, to bear the costs.

This is not the answer to the persistent poverty exposed so brutally and graphically by Katrina. We must pursue a comprehensive solution to our fiscal woes by suspending tax cuts for wealthy families, by cutting spending, and enacting PAYGO rules, pay-as-you-go, and establishing an emergency rainy day fund.

Mr. Speaker, the 2005 budget resolution included $106 billion in new deficit finance tax cuts over the next 5 years. These additional tax cuts will impose a huge additional debt burden on the next generation. If the government is forced to borrow the money to cover these added expenses, the yearly interest payments alone will pile on the already enormous debt that our children and grandchildren will be faced with paying off.

Most of these tax cuts will actually be doled out to individuals who do not need more of the government's largesse. With American troops in combat in Iraq and Afghanistan and with our country coping with the rebuilding of the gulf coast, all of us, all of us, must sacrifice for our troops and for our neighbors.

In addition to suspending tax cuts for wealthy families, the Congress must immediately restrain its voracious appetite for spending, finding places where cuts can be made to pay the costs of Katrina and Iraq. And in addition to making tough cuts, the Congress should move to immediately reinstate PAYGO rules to stop any further bleeding.

Finally, the Congress must establish a rainy day fund for future Katrinas so we will not find ourselves in this spot again. The interest earned by such a fund could be used for disaster planning and preparedness, to modernize our Nation's infrastructure, fortify our levees, and to update and make interoperable our communications systems.

The American people now understand the precarious state of the Nation's finances. Today our national debt stands at nearly $8 trillion. Each citizen's personal share of that debt is almost $27,000. This is what we bequeath to our children, and it conflicts most directly with what my parents taught me and what most of our parents taught all of us, that is, we leave the country a little better off than we found it.

In 1989, a New York City real estate developer named Seymour Durst placed a large National Debt Clock in Times Square in order to draw public attention to what he saw as a grim predictor of financial instability. For 11 years, the debt numbers on the clock rose at the breakneck pace of $13,000 a second. In 1995, as the Clinton administration began to pay down the national debt, onlookers were shocked to see the numbers on that clock not only slow down but reverse. The clock was retired in the year 2000, as President Clinton announced record reductions in the national debt.

Mr. Speaker, unfortunately, no debt clocks were at work this time drawing attention to this crisis. It has taken Katrina to awaken the Nation to the coming fiscal crisis. Let us hope our response to this crisis is an improvement on our response to the last. We owe that to our kids.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. NORWOOD) is recognized for 5 minutes.

(Mr. NORWOOD addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

(Mr. DeFAZIO addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

ORDER OF BUSINESS

Mrs. DAVIS of California. Mr. Speaker, I ask unanimous consent to take my Special Order at this time.

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

There was no objection.

RECOGNIZING DONNA SMITH ON HER RETIREMENT AS LEGISLATIVE COUNSEL

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Mrs. DAVIS of California) is recognized for 5 minutes.

Mrs. DAVIS of California. Mr. Speaker, I rise today to commemorate the end of a distinguished career and yet the beginning of new ad ventures and horizons.

This week my legislative counsel Donna Smith is retiring from my congressional office, ending an extensive and dedicated career of public service.

For the past 5 years in Washington, Donna has handled what she referred to as the three Es: education, energy, and the environment, as well as many other issues.

Donna is a California native born in Los Angeles. Her family soon relocated to San Diego. And what would be L.A.'s loss became San Diego's gain.

She graduated from Pomona College and received a teaching credential from UC Berkeley and began an 18-year teaching career. She instructed students in English, social studies, journalism, and history. She taught at the San Diego Unified School District and served as the junior high school principal and teacher for the San Diego Jewish Academy. During these years of mentoring and teaching, Donna was also active in the community and began her interest in public policy and politics.

Our association together began as members of the League of Women Voters where she served as the League's vice president from 1973 to 1977.

She helped introduce me to the issues I came to embrace and to the invaluable discourse of pro-con discussions for which the League is well known. At the same time, we were all building long-lasting relationships.

In 1992, Donna was appointed by San Diego Mayor Maureen O'Connor as a member of the San Diego City Council Elections, Campaign, and Government Advisory Board. And as a member of the board, she was instrumental in formulating a proposal for a San Diego ethics commission.

Donna holds a myriad of other interests beyond creating sound public policy. She loves music; travel; the arts;

and, of course, spending time with her three grandchildren. And when most of us are content cruising through life with our careers and family, Donna's love of learning and public policy motivated her to get her legal degree from UCLA in 1996.

□ 1815

Before I came to Congress, Donna served as my chief of staff in my final two terms as a member of the California State Assembly. Any chief of staff who oversees a district and legislative office knows that job has its rewards, but also many challenges. As I transitioned to Congress, Donna came east to Washington to fulfill a longtime goal of developing public policy, a job she is well suited for. She has an ability to put her arms around an issue and see all sides of it. Instead of sound bites, Donna is always able to see the whole picture.

She has been so much more than a trusted adviser on the issues. She has been a partner in crafting legislation on teacher quality, improving curriculum, promoting renewable energy, protecting open spaces in San Diego, and negotiating the complex issues of the 2000 electricity crisis in San Diego.

In the midst of immersing herself in politics and policy, Donna has also immersed herself in the cultural and artistic endeavors that Washington has to offer, as she did in San Diego.

She is not only a multitasker, but a multi-talented renaissance woman. From playing her cello, to singing in the choir at the National Cathedral, to traveling to such exotic locales as Egypt, New Zealand and India, it can certainly be said that Donna has not let life pass her by.

Many of us in Congress know that a good staff is the key component to our ability to create public policy, and Donna has been such a vital asset to my office and to my successes as a public servant. Donna has been more than an invaluable member of the staff; she has been a good and loyal friend.

She not only will be missed in our office. I am sure she will go on and be envied by all of us. As we are all heading off to work next week, Donna will continue to travel, to sing, to play and taste the flavors life has to offer. And in the middle of all that, she will find and give great joy as the consummate grandparent. And knowing Donna, she will be an active player in making our country and the world a better place to live.

I hope my colleagues will join me in recognizing the years of hard work and public service that Donna Smith has provided to San Diego, to California, to the Congress, and to our Nation.

Thank you, Donna.

The SPEAKER pro tempore (Mr. KUHL of New York). Under a previous order of the House, the gentleman from Georgia (Mr. GINGREY) is recognized for 5 minutes.

(Mr. GINGREY addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

(Ms. KAPTUR addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

CONDEMNING REMARKS OF WILLIAM J. BENNETT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. RUSH) is recognized for 5 minutes.

Mr. RUSH. Mr. Speaker, this evening I rise before this House condemning the words spoken yesterday by former Secretary of Education William Bennett. It is truly reprehensible that as we try to heal the wounds that were laid bare following the disaster of Hurricane Katrina, that powerful elements in the Republican Party still insist on espousing racial rhetoric while trying to divide Americans based on the color of their skin.

I was shocked, I was appalled that the former Secretary of Education, William Bennett, a prominent member of the Republican Party, would go on public radio and say, ''But I do know that it is true that if you wanted to reduce crime, you could, if that were your sole purpose, you could abort every black baby in this country, and your crime rate would go down.''

Mr. Speaker, as a proud black American who was honorably discharged from the U.S. Army, I know that this is precisely the kind of insensitive, hurtful, and ignorant rhetoric that Americans have grown tired of.

Mr. Speaker, Mr. Bennett still has power and influence within this Republican administration; and he is representative of the ignorant, inconsiderate politics that have been displayed in this government today. And I am calling on my friends, the responsible Republicans, to rebuke Mr. Bennett for his damaging statement.

Where is the indignation from the GOP, as one of their prominent members talks about aborting an entire race of Americans as a way of ridding this country of crime? How ridiculous. How asinine. How insane can one be?

Mr. Bennett's remarks were thoughtless, mean-spirited, and well, well off the mark. We all know that aborting black babies would not decrease or erase the crime rates in this country. Aborting the Republican policies which have hurt the disadvantaged, the poor, and average Americans for the benefit of large corporations would be a much more sane and reasonable way to address crime and poverty in this Nation.

Americans are sick of the poisonous, divisive atmosphere that is prevalent in this Republican era. Americans want reform. Americans want change. Americans want an end to the culture of corruption and bitterness that the Republican Party and this House have come to embody.

It is ironic that the same people who promised America that they would clean up the system 11 years ago, have used their power and influence to benefit their own agenda and defile the

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The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GOHMERT) is recognized for 5 minutes.

(Mr. GOHMERT addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. ENGEL) is recognized for 5 minutes.

(Mr. ENGEL 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 Arizona (Mr. FRANKS) is recognized for 5 minutes.

(Mr. FRANKS of Arizona addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

THANKING THE PEOPLE OF KAZAKHSTAN FOR THEIR ASSISTANCE TO AMERICA AND THE WORLD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Louisiana (Mr. MELANCON) is recognized for 5 minutes.

Mr. MELANCON. Mr. Speaker, Hurricane Katrina has caused not only colossal damage to the economy of Louisiana and the entire gulf coast but she has also taken away hundreds of innocent lives and left thousands homeless. As the Representative of the Third Congressional District of Louisiana, half of which was leveled by this disaster, I would like to express my sincere gratitude to those who have responded to this American calamity. I would especially like to thank the people of the Republic of Kazakhstan and their president, Nursultan Nazarbayev, for the condolences and readiness to render financial assistance to Katrina's victims.

No one can have too many friends, and that applies to both countries and individuals. The history of the United States and Kazakhstan's cooperation is a vivid example of a partnership between true friends and allies with shared values.

Kazakhstan inherited the world's fourth largest nuclear arsenal from the Soviet Union but choose not to keep that lethal legacy, which could have automatically placed Kazakhstan among the world's nuclear superpowers. Instead, the people of

Kazakhstan, led by their president, chose the path of peaceful development and, together with the United States, dismantled these weapons of mass destruction. That was a worthy move of a strategic partner.

After the tragic events of September 11, Kazakhstan unhesitatingly and unconditionally supported the United States and declared its full assistance in the war on terrorism. That was a demonstration of sincerity and steadfastness of the people of Kazakhstan.

As the only country from Central Asia to send its military contingent to Iraq, Kazakhstan, despite some wavering among other coalition members, has repeatedly stated that it remains committed to its obligations and it will keep its military engineers in this unstable country as long as it takes. That was a courageous act of a genuine ally.

As we face this colossal tragedy, the Government of Kazakhstan has announced its readiness to help the victims of Hurricane Katrina, and this is a noble gesture of a true friend.

Mr. Speaker, the Republic of Kazakhstan is one of our most reliable and strongest allies and a true partner. After only 13 years of its existence as an independent state, Kazakhstan has achieved tremendous success and economic development in the building of a true democracy.

President Nazarbayev in his address to Parliament earlier this month outlined a very impressive profile of his country's future development. He listed concrete goals and objectives on further improvement for the social and economic well-being for all Kazakh citizens, as well as moves to deepen political and democratic reforms. He proposed expanding the role of Parliament, introducing local elections, enhancing the role of political parties, introducing jury trials, expanding the role of nongovernmental organizations, and strengthening and developing a free news media.

I support the determination of Kazakhstan's leader to develop small and medium enterprises and agree with him that the success of political and economic programs depends on the creation of a class of private property owners who will make up a newly formed middle class.

As the President has stated, the main goal is to stay the course and sustain the pace of transformation. I believe the United States' response should be our readiness to assist this process.

I urge my colleagues and the administration to devote more attention to our strategic partnership with Kazakhstan.

In conclusion, Mr. Speaker, I would like to agree with President Nazarbayev that we are deeply optimistic about the future of Kazakhstan and the future of the United States and Kazakhstan partnership.

FAREWELL TRIBUTE TO JOINT CHIEFS OF STAFF CHAIRMAN AIR FORCE GENERAL RICHARD B. MYERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, the gentleman from California (Mr. HUNTER) is recognized for 60 minutes as the designee of the majority leader.

Mr. HUNTER. Mr. Speaker, I take this time to talk a little bit about a great American leader who is winding up his tenure as the chairman of the Joint Chiefs of Staff of the United States of America, and that is, of course, General Richard Myers.

General Myers had his last appearance before the Committee on Armed Services today, and I was reminded of all the many wonderful appearances that he has made in advising not only the President and the Secretary of Defense but also the membership of both of the Houses of Congress with respect to the United States and our military requirements.

I was looking over the statements that were made by the President and others in 2001, really just a few days after 9/11, when General Myers was nominated for this position by the President of the United States, and I thought I would read that statement that the President made. I am quoting the President, George W. Bush, who said then in 2001: ''Today I name a new chairman of the Joint Chiefs, one of the most important appointments a President can make.

□ 1830

''This appointment is especially so because it comes at a time when we need great leadership. Secretary Rumsfeld and I thought long and hard about this important choice, and we enthusiastically agree that the right man to preserve the best traditions of our Armed Forces, while challenging them to innovate, to meet the threats of the future, is General Richard B. Myers.''

The President went on to say, ''General Myers is a man of steady resolve and determined leadership. He is a skilled and steady hand. He is someone who understands that the strengths of America's Armed Forces are our people and our technological superiority, and we must invest in both.''

Now, later, after the President had made that nomination, a number of people weighed in on this, commentators in the main weighed in on this nomination by the President and one, in one of the discussions, General Richard Hawley, retired, was asked about General Myers. He was asked to give his take on this particular appointment by the President. He said, ''Well, Dick Myers has wonderful credentials at the tactical, operational, and the strategic level. He has had diplomatic assignments. I think perhaps as an example when he was at U.S. Space Command, he really helped our combatant commanders understand how to fully integrate our space capabilities into their operations. And he also helped particularly those of us in the Air Force, but also I think others who work in defense issues understand what the potential is of our space forces to contribute in the future of our operational success.''

Now, of course, after that initial nomination and confirmation by the Senate, General Myers was thrust into this role, this very demanding role at a time in which we were engaged in a shooting war in Afghanistan on the heels of 9/11 and, shortly thereafter, combat operations in Iraq which have been ongoing. Through all of that, General Dick Myers has truly been a steady hand. He has been thoughtful, he has been able to handle the exigencies, the emergencies of the moment and, at the same time, look over the horizon to the problems that may face us 5 or 10 or 15 years down the line.

All the while he was operating or maintaining this understanding of our operational requirements in a combat sense, General Myers has been there when we have had national emergencies. I remember the hail of firestorms that we had in California. We had massive parts of our State literally on fire, and we desperately needed help. I remember the bureaucracy that we had in California in those days, and the fact that the State of California had not requested that our military capabilities, our military aircraft, that have a tremendous capability to put out forest fires, they had not requested that those be brought in because, in their words, they wanted to use all the contractors that they could before they went to the military. While that was happening, much of California was burning up.

I remember the decision that General Myers made to not wait on the bureaucrats in California, but to send these units, these emergency units out to California, and his reasoning was, by the time the planes got there, California would understand that they, in fact, needed some help in putting those fires out. Sure enough, before that first unit landed at Point Magoo, the State of California had, in fact, decided that they were not going to be able to put this one out in an expeditious fashion, and they requested the aircraft that General Myers had already sent.

So it was an example of a leader who understood how important it was to act quickly. Now, he has acted quickly as an adviser to the President and the Secretary of Defense. He is not in the chain of command. The combatant commanders go directly up to Secretary Rumsfeld and the President when they are receiving their orders for the prosecution of a war. But General Myers' advice on operations, on moving troops, on putting together a plan to handle the challenges of things like these improvised explosive devices, to handle rotations, this tremendous stress on our forces as we move forces in and out of theater, and as we bring the Guard and Reserve in and we

match them up with the active duty forces and have them in the present combat situation in Iraq and in Afghanistan, have the Reserve and Guard forces working side-by-side with the active duty forces to the point in which they cannot be distinguished, one from the other is, to a large degree, a function of General Myers' leadership.

So he leaves us with his last appearance before the House Committee on Armed Services today, and he is going to enjoy hopefully a little free time with his wonderful wife, Mary Jo. I know that we will be calling on him to give us his great judgment in the future, because he is a great American with lots of integrity, lots of respect from all sides of the aisle on Capitol Hill in both bodies, and also a great deal of respect from those people that work and serve this country every day, wearing the uniform of the United States. We are going to call on General Richard B. Myers many times. A wonderful, wonderful American.

Now, I would also like to talk very briefly about another great American, and an American family. I was reminded about this family when General John Kelly came in and we discussed some of the challenges that we are facing in Iraq. He is the liaison for the United States Marine Corps on Capitol Hill.

I thought about that family, that Kelly family as he walked out the door, and about the fact that while General Kelly was the Deputy Commander of the First Marine Division, and a very tough conflict and contest in Fallujah, in the western area of operations in Iraq, one of the most volatile and one which is very, very dangerous. While he was the Deputy Commander of the First Marine Division, his son John was a communications officer, also a United States marine in country, and his other son Robert was a rifleman, a member of a marine fire team, an enlisted marine who was, in fact, on the ground floor going house-to-house, street-to-street, and carrying out the mandates of the leadership of the First Marine Division in which his dad was the Deputy Division Commander. What a great American family. What a tradition this Kelly family has manifested. Of course, General Kelly has a wonderful daughter, Kathleen Kelly, who has spent a lot of time in places like Bethesda Hospital, comforting wounded marines and letting them know that Americans care about them.

That is the tradition of this country, and it is one that the Kelly family has done a lot to promote and to extend, and our great thanks to them for what they have done.

Also, Mr. Speaker, today I wanted to mention two wonderful leaders in my community who have passed on very recently. I have discussed before Jim Kuhn, who is a great, wonderful guy from the Imperial Valley, the guy who started the Salton Sea International Bird Festival. We are down there in Imperial Valley, we are very close to, and in fact, touch the Mexican border; we have an immense inland sea that is full of salt water, the Salton Sea. Jim Kuhn was a farmer who was a standout citizen who started in football and wrestling and went to Stanford, but came back to his beloved Imperial Valley and became one of the leading farmers, one of the leading innovators, a guy who was very creative in his area of agriculture, but also a guy with a great heart for the community. He founded this International Bird Festival which has brought people from all over the world to the banks of the Salton Sea there in Imperial Valley, California.

Jim died, as I noted earlier, very tragically in an automobile accident. He leaves a wonderful wife Heidi and the children, Vienna and Fritz, to carry on his legacy, and I know that they will.

Another dear friend and a great leader in California passed away, and we had services for him yesterday, and that was Corky McMillan. Corky McMillan was a guy who started his business with a pickup truck and a few carpenter's tools and rose from that and I might say is a guy who built much of San Diego, built a career and built a community in San Diego from those humble beginnings to become San Diego's finest homebuilder, one of the finest homebuilders in the Nation, and a person who literally built communities, not only in San Diego, but also in other parts of California and in other States.

Corky McMillan was a guy with a great heart. He was a guy who did lots of stuff for the community and was centered on his family. His family, Scott and Mark and Lauri and, of course, his beloved wife Bonnie were everything to Corky.

He became one of the great off-road racers in southern California. Those are the people that go down into Baja, California, with machines that go over holes in the ground that are 2 and 3 feet deep over ravines, literally taking those vehicles, those desert vehicles over them in a surreal manner, sometimes at speeds far exceeding 100 miles an hour, and manage to survive all of that. It is a rare breed of people. It started out with guys like Parnelli Jones, and has become a very high-tech sport, and it is one in which Corky McMillan and his sons Scott and Mark excelled and elevated to a level in which it is appreciated by people throughout the world.

Corky McMillan was a wonderful guy who gave a lot to his community and a lot to his country and a lot to the sport of racing, and we are going to miss Corky McMillan.

So I thank my colleagues for letting me reflect on some transitions today and talk about some Americans who truly deserve to be well remembered.

DISCUSSING THE AFTERMATH OF HURRICANES KATRINA AND RITA

The SPEAKER pro tempore (Mr. KUHL of New York). Under the Speaker's announced policy of January 4, 2005, the gentleman from Iowa (Mr. KING) is recognized for 60 minutes.

Mr. KING of Iowa. Mr. Speaker, I appreciate the opportunity to address my colleagues tonight and address this House of Representatives. As I sat and listened to the Chairman of the Committee on Armed Services, the gentleman from California (Mr. HUNTER), I cannot resist the sense of duty and obligation to weigh in on some of his remarks that he made with regard to General Myers as chairman of the Joint Chiefs of Staff.

Of course, the gentleman from California (Mr. HUNTER) has worked very closely with General Myers and he knows him far better than I do. My work in relationship there has been not as deep, but I have been as impressed as the gentleman from California (Mr. HUNTER) has been with Richard Myers, the chairman of our Joint Chiefs, and with his vision and his ability to see beyond the horizon, as the gentleman said.

I also had the privilege of meeting General John Kelly over in Iraq before the operation that ended the battle of Fallujah, and I was impressed with his dedication and his vision and his understanding of who our enemy was and what needed to be done, and I was pleased to sit here tonight and hear the remarks made by the gentleman from California (Mr. HUNTER), honoring the family, the family commitment to the military and to the defense of this fine Nation that was made by General John Kelly and his children.

Mr. Speaker, let me shift to the subject matter that I asked to speak about tonight and that is the subject matter that I have come to call ''Katrita.'' We have been here on this floor a couple of hours in the past 2 weeks, and I have spoken at great length about Katrina and, in these past few days, we have seen the aftermath now of Hurricane Rita. I just merge them together, because essentially they did merge together, Mr. Speaker, as Katrina hit New Orleans and points on the east and Rita hit points to the west of New Orleans on over into the bay and into Texas, so they have crossed those lines and the damage of the two hurricanes have overlapped on each other.

When I take Katrina on the one side and Rita on the other side and merge them together I get Katrita. It is the largest natural disaster I believe that this Nation has ever seen. We are fortunate that it has not been the largest loss of life, although we mourn those who we have lost, and we are still in the process of recovery. But this financial loss and the term of time that will be required for reconstruction I think is the most devastating that America has seen. We are going to need to pull together on this.

I am well aware that there are Members of Congress who have districts

that were hit hard by the dual hurricanes, and they are the most sensitive to these issues. I am up in the upper Midwest, although I have made my trip down there and much of my staff has been down there, and in fact, I have a staff person there today who will be there for some time. We want to lend a good hand to the people in the gulf coast intelligently and responsibly.

Before I get into that in any great depth, I will be happy to yield the floor to one of those individuals who does have constituents in the area, the gentleman from Texas (Mr. POE).

□ 1845

Mr. POE. Mr. Speaker, I wanted to thank the gentleman from Iowa (Mr. KING) for yielding and for hosting this hour to discuss these important issues.

When the two ladies of the gulf came in to Southeast Texas and southwestern Louisiana just in the last few weeks, in some respect the whole area and our attitude about natural disasters changed. As you mentioned, this is not the greatest loss of life regarding hurricanes. In fact, the greatest disaster that occurred in American history occurred in the year 1900 when ''the storm'' as it was called came across Galveston, Texas, that island, and killed at least 8,000 people, maybe even 12,000 people.

Times have changed a great deal because we now follow those hurricanes as our weather forecasters did with the two ladies of the gulf, Katrina, and more recently, Rita.

As you know, the folks in Louisiana disbursed throughout the United States but many, probably most came to Texas. And Texas is on the other side of the Savine River, and many of those people stopped off in my congressional district in Beaumont. Even this past week before Rita hit, there was still 15,000 people from Louisiana in Jefferson County where Beaumont, Texas is. Many of them went on further to Houston which is about 90 miles away.

The good folks in Texas and other parts of the country have tried to take care of those displaced citizens the best they can. Just last week, almost a week ago Hurricane Rita came down hurricane alley and hit us in Jefferson County and Liberty County and Harris County, three counties that I represent or portions of these three counties.

We did some good things. I say ''we,'' the government officials, local officials, Federal officials, and the community did some good things before Hurricane Rita came ashore. Of course, they were aware of the fact that there was a hurricane coming so there was an evacuation plan implemented. There was an expectation that about a million people would evacuate southeast Texas and move further west into other parts of Texas, but the truth of the matter was there was over 2½ million people evacuated.

By any imagination this would have been a large scale military operation in time of war. Moving 2½ million people logistically is a massive undertaking. The mayor of the City of Houston, Bill White, and the county judge, which is our county president, Robert Eccles, did a tremendous job moving people and evacuating people. And so, those people are coming back into southeast Texas as we speak.

The counties that I represent, Jefferson County, is still without power tonight. It has been almost a week. Still without water. It has been almost a week. The same is true in parts of Liberty County. As you know, in southeast Texas and southwest Louisiana from New Orleans to Corpus Christie, Texas, 60 percent of the Nation's gasoline is refined in that one area. In Port Arthur, Texas, which was hit by Hurricane Rita, 27 percent of the gasoline is refined in that one small community for the whole United States. And because of the Katrina and Rita, several of these refineries have had to shut down. Many of those refineries have never shut down since the day they opened some 20, 25 years ago. Those refineries invented the phrase of working 24 hours a day, 7 days a week, many years ago. It takes several days to get these refineries up and running once again.

I will mention something about the refineries momentarily. But for the most part, there was no damage to these refineries that cannot be repaired in just a few days, but they are missing a power source to start up again.

The county of Jefferson County, Beaumont and Port Arthur, evacuated about 90 percent of the people who lived there. Most of them are still displaced in parts of Texas, I think some of them are have gone to Iowa and looking at Iowa for the first time in their lives. They, of course, want to come home.

The situation there now after a week, local officials are there trying to maintain, of course, some order. For the most part there has been very little looting, and our first responders are spending 12 hours a day working in shifts. The biggest problem our first responders have is that they are sleeping in their police cars. Of course, they have no electricity. They have no air conditioning and they are doing a marvelous job. It is interesting to note that not one member of the Beaumont Police Department left town during Hurricane Rita.

Something remarkable occurred and I think it is worthy to note that the port of Beaumont ships most of the military cargo to Iraq and Afghanistan. Docked in the Port of Beaumont at the time of the hurricane was the Cape Victory and the Cape Vincent, two cargo ships that transport military cargo to Iraq and Afghanistan.

They were all expecting a surge of water to not only take over Port Arthur but further north, Beaumont as well. So the mayor and the first responders were concerned about their vehicles, what to do with them because they were doing to need them as soon as the hurricane was over. So the two captains of the Cape Victory and the Cape Vincent and the mayor, Mayor Guy Goodson, came up with the idea to put all of these vehicles on the two cargo ships. One does not think of seeking safety on a ship during a hurricane, but that is exactly what happened.

So they, in just a few minutes, made the decision and started within an hour without any red tape, without any permission, without any bureaucracy, without any committee meetings, just loading those two ships with police cars, fire trucks, ambulances, fire equipment, front-end loaders, police helicopters and dump trucks from several surrounding towns. Tug boats went into operation during the hurricane to secure the ships, and as soon as the hurricane passed by those vehicles were ready to be used and they are being used and they were all taken care of in a very safe manner.

We are thankful to these two salty sea captains for coming up with that idea and protecting the first responders there.

I do want to thank the President for coming down to my district and viewing the situation firsthand. He did so in Louisiana, came into Texas. He had a meeting with the local officials and the first responders. And then he flew over the entire area in a helicopter to see southeast Texas and of course Louisiana as well.

The need for American petroleum and natural gas and dependence on ourselves could not be more evident in this hurricane, in these last two hurricanes.

We in this country for various reasons have not built a new refineries since over 25 years ago. It is not economically profitable to do so so there has not been any. We are now 60 percent dependent on foreign crude oil in the United States, and every day we take more and more away from our own selves and we have to import crude oil to make sure that the American public has gasoline.

These two disasters are evident that we need to do something about being energy self-sufficient. Most of our refineries are in southeast Texas, southwest Louisiana. Most of the offshore rigs are in the gulf in the same area. That is why it is important in my opinion that we drill in other parts offshore, not just off the coasts of Louisiana and Texas but even further east, even off the coast of Florida, the East Coast and West Coast as well. We are the only major power in the world that has the policy of not drilling off our own shores.

People complain and are concerned, and that is rightfully so about the price of gasoline, certainly they should be, and we have to find a place to refine that crude oil and we also must find a way to produce crude oil as well.

Mr. KING of Iowa. Mr. Speaker, reclaiming my time, I would pose a question to the gentleman, as the gentleman raised the issue with the natural gas and oil drilling that goes on in the gulf, I have seen the map of where those rigs are, the platforms that are out there, and what I cannot see when I go down there along that shore and what I cannot seen when I go along there and in a plane or a helicopter is any rigs. Can you see the rigs from the shoreline, say if you are sitting on the beach anywhere down there?

Mr. POE. Well, of course they are not on a beach and the only way you could ever see is them on a clear night you could sometimes see the lights from the rigs that are offshore; but generally speaking, in the daytime you cannot see them at all.

Mr. KING of Iowa. I would pose a follow-up question. Does the gentleman have any idea why it is some folks oppose the drilling offshore when it is out of sight?

Mr. POE. I do not understand why. I think, in my own opinion, there is a certain fear and panic about offshore drilling that is unfounded. Those folks that can drill offshore today can do it in a very environmentally clean manner. The best example is probably using the North Sea. The roughest seas in the world are in the North Sea. And the North Sea has numerous offshore rigs. Most of them built by, of course, Texans, and they can do so in a safe manner.

We can drill offshore in a safe manner. We can drill in an environmentally safe manner. No one wants polluted air or water. I think the day has come now where we have to get rid of the unnecessary and abusive regulations so we can drill offshore. It will not only bring us natural gas, crude oil for gasoline, but it will bring an income to the American public, because when the Federal Government leases offshore, oil companies pay for those leases.

And some estimate that the American Treasury could receive up to $7 billion a year by leasing in those areas where we have not leased before.

So it is a decision that the American public is going to have to make, depending on foreign gas, natural gas, depending on foreign crude oil or drill offshore; and I think we should drill in numerous places. And it is a security issue because as you know when those hurricanes get in the gulf, they have to go somewhere. And we got all those rigs in one place, the refineries in one place as we have seen, it could have been a whole lot worse and the country could be in a whole lot worse shape just because of the energy and the lack of offshore drilling.

Mr. KING of Iowa. Mr. Speaker, I am advised that the last oil spill we had in any offshore drilling for oil was 1969. I do not know if the gentleman can confirm that, but in that question could the gentleman also respond to the question of, does the gentleman know if there has ever been a spill of natural gas drilling offshore? And if it did spill, would it kind of look like the gas that is boiling up out of the water in New Orleans where it would just dissipate into the air and is there a reason to be concerned, even if we were irresponsible with regard to natural gas drilling?

Mr. POE. Mr. Speaker, as far as I know there has not been any major problems. We know we have had these two hurricanes and with very little environmental impact with the offshore rigs. The refineries are built very, very well. The refineries knew that the hurricanes were coming. They started burning the fuel that was in the pipe so there would not be any pipe disasters.

Just to mention as a side note, one-third of the pipelines in the United States go right through my congressional district. They go to all parts of the United States, but one-third are through that congressional district. It is all very highly concentrated, but we can proceed with a safe energy policy. And like I said, the American public has to make that decision, and I hope they make the right decision which would be that we become more self-sufficient on energy.

Mr. KING of Iowa. Mr. Speaker, I thank the gentleman for coming to the floor to stand up and let America and the Speaker know the circumstances in southern Texas and how that has impacted you all down there. I will pick up on the flow of this.

I had the privilege of going down there very early. In fact, my district director was on the ground near New Orleans on an air base on Labor Day which was just barely in the aftermath of the hurricane. It was important, I thought, to have someone down there to see what was going on so we could measure the magnitude of the disaster down.

He went down with a KC–135 load of Air Force MP's out of Colorado and reported back to me immediately. From what he saw down there, he said he thought there was so much military activity on Labor Day that it reminded him of the DaNang base during Vietnam when he was there.

So that gave me a sense of how much military effort there was even that early, and yet the public does not have the perception that there was a Federal response that was nearly as aggressive or as comprehensive as it actually was.

I would say further that I did not wait. The following week I was there on the eleventh and twelfth of September. I came in very early on that Sunday morning. I got a good look at much of what was going on and went up in a Black Hawk helicopter and flew all over New Orleans for a couple of hours. I went back down and had the meetings that I had asked for. I was given a ride over the Corps of Engineers headquarters.

□ 1900

There I entered their administrative offices where they rode out Hurricane Katrina, and looking at the drawings that they had and the maps of the area, and I had studied the elevations and the levees and the system that had been constructed. I had also read the reports that were predicting the worst-case scenario, which essentially Katrina was the worst-case scenario for New Orleans with the exception that maybe the winds could have been a little stronger, but it went in the most damaging path it could have. It was almost the perfect storm, and I will return to that description perhaps in a few moments, Mr. Speaker.

But when I think of the immediate military response that kept the air bases looking like Danang with so many planes landing, we had fixed-wing aircraft landing more often than one every minute, whether it be C–130s or KC–135s, cargo aircraft coming in with manpower and also with supplies, equipment, everything they could imagine that they could muster up from our military. Those fixed wing aircraft were landing on the runway. The military had set up their power system, and they had taken over the communications for the air traffic controllers which did not have power.

So the military system kicked in, and they were controlling the fixed-wing aircraft to land one more often than every minute on the runway there. Then, on top of that, the helicopters were coming and going; and they were landing crossways of the runway, asked to yield the right-of-way to the planes that were landing, a very, very busy place on Labor Day that early after Katrina hit.

So I would just fast forward to, in fact, exactly 7 days later when I found myself in a shelter in Slidell, Louisiana, visiting some of the people who had been evacuees from their homes and were looking for a place to lay their weary heads. They had set up the gymnasium there with perhaps 300 cots, a Red Cross-structured shelter. As I walked through there and visited some of the victims of the storm, I got a sense of the stories that they had lived through and a feel for the way they had been helped out and the helping hands that came from volunteers from all across this country, and in fact, hearing the stories of the traffic that was going south, while the evacuation was going north, people coming to help were a traffic jam themselves.

That is the American spirit, Mr. Speaker; and in that gymnasium, I met a young man who was a specialist with the 711th Signal Battalion out of Mobile, Alabama. He was Specialist Cunningham, and I asked him, of course, what unit he was with. He said, 711th Signal out of Mobile, Alabama, sir. I said, how did you get here out of Alabama? Didn't you get hit by a hurricane there, too? He said, Yes, but our orders were to come over here and help the people that needed it worse than we did. I said how did you get across Mississippi? His answer was, We used chainsaws and we used Humvees and

chainsaws, and we essentially cut away across the trees that were down over the highway, and we drug them out of the way and we opened the road and worked our way over here. So they had cut all the way or worked their way and cleared some of the way, if not all the way, across Mississippi to Slidell, Louisiana, on the eastern side of the Louisiana border, right next to the Mississippi line.

People from Mobile, Alabama, 300 strong, in there early, and they started out on Monday. That is Monday Labor Day, the same day my district director landed down there near New Orleans, the same day that the air traffic was landing, one plane more often than every minute, with helicopters landing in between, bringing manpower and machines and equipment and supplies in for people that were in need.

Mr. Speaker, the Federal Government did provide a fast response; but it was a huge area, 90,000 square miles to start with; and now it has been added to significantly by Rita. Of course, we learned from Katrina; and some of the things that were in place in Texas in preparation for evacuees, particularly those that might come out of Galveston in the event of a hurricane, were very beneficial to the people that came from New Orleans and found themselves in Houston.

I am quite impressed with the effort of the region and the resources that they pulled together and the ability that they had in the Astrodome to have supplies there and water and food and medicine. I think the report was 400 different kinds of pharmaceuticals in a pharmaceutical shop that was set up there along with cots and all the services that they needed, medical help and psychological help, and the list went on. Plenty of volunteers were able to take thousands of people into the Astrodome and have the supplies there so that it was orderly, clean, and neat. It was not littered.

Apparently, the people who went to the Astrodome helped clean the place up. I do not know, but every time I saw a picture of that, it was a clean place; and whenever I saw a picture of the Superdome, it was a very, very filthy and littered place that appeared to have no order, and it was a chaotic location, as we all pretty well know by now.

As the Committee on Government Reform meets and holds hearings and examines the circumstances that unfolded, I really do think that we need to let them do their due diligence. I think we need to let them listen to the testimony, and we heard the now-just-resigned director of FEMA give his testimony yesterday. More testimony followed today, I understand. It will follow in the days and weeks ahead.

It is important that we put on record the chronology of what happened when, where was the storm in the path, what notices went out, what decisions were made at what time, who was in the position of authority, and at what time did they make those decisions, who did they consult with, what was the basis of the facts of the information, what equipment did they have to work with, what alternatives did they have, what had they done in the past history to prepare themselves for such a disaster.

Certainly, it was not a surprise that a hurricane might someday hit of that magnitude, because that was published in the New Orleans Times-Picayune newspaper, I believe it was in late 2002.

I have read all those articles, and I have read the worst-case scenario, and I cannot believe that I would be one of the few people, but many, many people in that region were aware of the worst-case scenario, and that is essentially what transpired.

I think it is important to let the committee do their work, the Committee on Government Reform, bring the witnesses forward, put their testimony on the record, take the documents, the supporting documents, and put those into the record and have the staff and the interested people and the public and the media be able to take a good look and examine the facts and then write up the scenarios.

This committee will issue a report, and I want to reserve my judgment on all the things that I think went wrong until such time as I can point to them and say these are congressional findings, they are facts; and I want to base my judgment off of those facts.

I will give, Mr. Speaker, a couple of opinions on what I think happened, and not to be passing previous judgment but simply to give an overall sketch of how it looks to me from what I have seen, what I have been involved in, and that is, that I think Hurricane Katrina, and Rita to a significantly less effect, but Katrina particularly was almost the perfect storm.

It did what the director of Homeland Security said here on this floor, that it came in in a military fashion. If you were going to attack a city and you wanted to immobilize a city, what you would do is wipe out the communications, the power and electricity. That is the first thing that Katrina did. Then you would cut off all the transportation routes into the city, and that is what happened with the flooding and the roads that were taken out. Then the third thing that would happen would be, of course, you would attack, and that was the flood. The flood, when you start filling up a city like that, it immobilizes everything. It put everybody out of commission.

So it was almost a perfect storm from the standpoint of the damage that it did and the direction that it took.

I can speak about that perhaps a little bit more, Mr. Speaker; but I would add to that then, when local services disappeared and when we saw that many hundreds of the first responders were victims of the storm themselves, either their places were damaged by the wind, damaged by the water, under water, or damaged by the wind and the water and under water, but the first responders took a serious blow, and they were not there to help coordinate. They did not have a communications system to help coordinate with. I am sure that there are many, many stories of heroic people that toiled in oblivion in that chaos of the first few days that was the effect of the storm that hit New Orleans.

I will say that that rolling chain reaction of disaster, the effect of the city's response in particular was not as effective as it may have been due to lack of communications ability, due to lack of resources in places where one would think they might have been, and then the loss of communications so that it was not possible to salvage the operations, salvage the response to the storm because the resources were not there, had there been the right decisions made, I think to provide them. So you take it up to the next level of the State, and there, again, communications and decision-making are certainly something that will be questioned.

It kept the decisions out of the hands of the Federal Government, except for those National Guards like 711th Signal Battalion out of Mobile, Alabama, who came in and under whose order I do not know, but I am awfully glad they came. I was awfully proud to look at young Specialist Cunningham in the eye when he told me that they had chainsawed their way across Mississippi to get to Louisiana.

That is the American way, Mr. Speaker, and when I hear the anecdote that was told by the gentleman from Texas (Mr. POE) a few moments ago about the decision to place the vehicles on a couple of ships and keep them safe from the hurricane, and that offer was made by a couple of captains, he said that they made the decision in just a few minutes to place vehicles on a ship. They did that right away, and they protected all of those vehicles, they were in good condition, good shape, because a decision was made at the local level. Quick-thinking people that looked around and saw the resources that they had, that has always been the American way.

When we let government make decisions, we delay. For government to make decisions, the bureaucracy moves too slowly, the information moving up to the bureaucracy gets there too slowly; and even if the right decision is made, chances are it does not get back down through and does not get implemented in time for it to have the effect that it might have.

You really need people on the ground that are thinking for themselves and have enough self-confidence, enough leadership ability and enough authority to make those decisions like that decision was that recommended by the two ships' captains that saved all those vehicles, so that as soon as the storm was over, they could roll them off the ships and put them right to work rescuing people.

I thought that was a good example, and to think that we maybe could have

had those kinds of decisions in other areas around the disaster area if we had gotten government more out of the way and let the local and those people make those decisions, but they had to make the right ones in preparation, too. That is the part that I think that the Committee on Government Reform will bring out here so that Americans will see it with a true perspective.

If I could, I would appreciate the opportunity to yield to the gentlewoman from North Carolina (Ms. FOXX) who knows her mind, comes here and speaks it, speaks up for the right causes and the right principles; and I am very pleased to be associated with the gentlewoman from North Carolina.

Ms. FOXX. Mr. Speaker, I have enjoyed listening to my colleague from Iowa, and we share a lot of things in common, being able to know our own minds and speak them. I think they are in the face sometimes of running against the flow, but I think that is what the people of our respective States sent us here for, and so I think that that is what we should be doing.

I have appreciated the comments that you have made. I heard a little bit from my classmate, the gentleman from Texas (Mr. POE), and his comments that he was making, too, and I think that all of us owe a great debt to the people from our districts who have stepped up and helped in so many ways.

I know that the people of the 5th Congressional District of North Carolina, my district, have been extremely generous with their time and money in helping with the hurricane relief. They, and all the other people, have exemplified what a wonderful country we live in and how volunteers do step up when we need them to.

Our government can do very, very many great things, and our government does do many great things. We have a lot of fabulous people who work for the Federal Government and the State and local governments, too; but there are things that we are not equipped to do.

I, like you and the gentleman from Texas (Mr. POE), have been extremely saddened by the devastation that we have seen inflicted by these hurricanes. They are not the greatest disasters necessarily that have hit our country, but they have certainly been the greatest ones that have come in a long time.

I think that what our military and the Federal agencies have done has been positive, but I think that we have to do more at the State level and the local level; and I think we have to urge people to do more through the volunteer organizations, as you talked about.

I supported $10 billion in aid that we gave for this relief. I have supported every other bill that has come through except the one big omnibus bill that we had, the $52 billion bill.

□ 1915

We have done a lot to provide relief measures, tax relief measures for people, for college students, for workers and worker training programs. But my concern is that we spend the money that we spend here from the Federal level wisely. As a State Senator, I thought we should spend our government's money wisely, but we have to be extremely careful that we do not let our hearts override our heads. If I am spending my own money, it is okay if I let my heart dictate. But if I am spending other people's money, I think I have to make sure that I am voting with my head and not with my heart.

One of the concerns that I have is that we have oversight in the money that is being spent on the hurricane relief. We have to have oversight and accountability or else we will waste the precious money that we have. Every dollar wasted is a dollar not going to help some family in need or some agency in need. And I think that it is shameful that members of the minority party have often exploited the suffering and loss of life in this tragedy to score political points. We do not need to be dealing with partisan issues here. We need to work together to help the people of the gulf coast. But we need to do it in the most effective and fiscally responsible way possible.

I supported the select Bipartisan Committee to Investigate the Preparation For and Response to Hurricane Katrina. I think that that is the way we should be operating. We are going to have a full investigation, as the gentleman mentioned, and the report is going to come out on February 15. All the facts have to come out so that we can take steps on the Federal, State and local level to make sure that we do not have a debacle like we had there before. I think it is very important we examine the role of the Federal Government in disaster relief.

I am really proud to be a member of the Committee on Government Reform, and I appreciate my colleague from Iowa mentioning the Committee on Government Reform and the potential role it has to play in looking at this. What I hope is that the Committee on Government Reform is going to review many, many government programs and how they operate, and that this will be a catalyst for us to see what we are doing, particularly with rules and regulations as they apply to what is happening in the recovery.

But as we do that, it seems to me we should expand the way we look at rules and regulations. Are they doing what we need them to do? Not only what went wrong with Hurricane Katrina, but what can we do to streamline the way we operate? I want measured, common sense solutions to what we have seen as a result of the hurricane, but I want common sense solutions to all of the problems that we face in this country, and I think our citizens are saying that.

I know when I am at home, people are saying please do not just throw money at this problem. Let us use this as an opportunity to make things better in the future, not just put a Band-Aid on the issues, but make sure we do not lose the opportunity to find out what went wrong, fix that, and then go even further. And let us reduce the role of the Federal Government, because as my colleague said, in many cases just some good common sense on the part of average citizens can solve a lot of problems and keep us from wasting a lot of money in trying to solve a problem.

So I commend the gentleman for having this special order tonight, for bringing this to our colleagues' attention. We need to keep talking about it. We need to keep talking about it in a positive way, not a negative way. We need to say let us look for solutions, let us solve the problems, and let us make the gulf coast a better place to live. Let us make our entire country a better place to live by reducing the role of the Federal Government in our lives.

Mr. KING of Iowa. Mr. Speaker, I thank the gentlewoman from North Carolina (Ms. FOXX) for her contribution to this discussion and this debate and her involvement on the Committee on Government Reform, which has got an important role to play, and always has when it comes time to streamline government and bring more responsibility out of government.

This is an especially important time. There are a lot of Federal dollars being poured into this region as we speak. And as the gentlewoman from North Carolina (Ms. FOXX) said, she voted no on the $52 billion. I am one of those people that voted no on the $52 billion. Actually, $51.8 billion, to be precise, not that a couple hundred million dollars is not splitting hairs in this Congress, Mr. Speaker, but I think it is. And I voted no because there was approximately $5 billion in there that was easily identifiable as not emergency spending, Mr. Speaker. It was money that was being directed towards 300,000 trailer houses, of which 270,000 were back ordered. Back ordered trailer houses, and mitigation of future disasters is not emergency spending.

I wanted to focus the money on emergency spending, and I wanted to get about another $10 billion down there to keep FEMA going for another week so that we could do a better job of oversight. Because, as you know, once the money goes out the door, it is a lot harder to watch where it is spent than it is to put the strings on it before it leaves the door.

I believe we could have done a better job of that, but I do believe that we are joining together here to do a better job and looking back on some of that appropriations, to do the best we can to make sure it is spent as well as we can in any future requests. I want to make sure that we weigh in very carefully on where those dollars go.

That is the biggest reason that I went down there fairly early in this, on September 11 and 12, and I got a good look at all of New Orleans from the air. I also flew down from the Corps of Engineers' headquarters there over the

Mississippi River, which runs approximately 90 miles south, in a little bit of a winding pattern down to the Gulf of Mexico where the Mississippi River outlets into the gulf. Most people in the upper Midwest think that New Orleans is on the coast, that it is the outlet of the Mississippi, but in fact it is another 90 miles or so. Of course, when I was there, it was only about 75, I believe, because the water was so high and the damage that was done it really shortened the Mississippi River by a significant proportion.

Nonetheless, that disaster that I saw down along the channeling of the Mississippi River, or I will say next to the Mississippi River channel, where the river has perhaps, and I will state the information that I have is that the levees built to keep the Mississippi River in the channel are 25 feet above sea level. Then on the west side of the Mississippi, from the levee and going west, there is perhaps an average of about a half mile of bottom land there. That is protected with another levee about 25 feet high which protects the gulf, so that the gulf does not come into the backside of that levee that controls the Mississippi River.

That area in between those two 25-foot levees is the area that is about a half mile wide and generally about 90 miles long, perhaps 45 square miles, with six or seven towns in there. Those six or seven towns were all wiped out. The wind hit them all hard and damaged them severely. Even some of the best structures were really damaged severely.

The wind hit, and then the water surged over the levee from the Mississippi River side and flooded that area in between those two 25-foot dikes with that half a mile in between, and then the water surged over from the gulf side and did the same thing. So I am going to say wind damage like I have only seen in the worst of tornadoes, the entire area wind damaged like that, with entire buildings just blown away into splinters. Then, when the flood came from the surge, any buildings that were not blown away were mostly washed away. They floated and crashed up against each other against the levee.

Mr. Speaker, I have here on the easel a picture of one of the better built buildings down there in that bottom land parallel to the Mississippi River. This may be, just guessing, perhaps 30 miles south of New Orleans along the Mississippi. This is a building that is built with steel pilings driven in, and who knows how deep, but down deep enough to get a very solid bearing in order to build a building that can withstand a hurricane and can withstand the kind of water surge that was going to come.

As you can see, as good as it was built, it still blew everything from here on down away, and there is not a lot left to salvage here. One might be surprised that the structure seems to be fairly sound. I saw this all over, but I also square mile after square mile that had been homes that was nothing but a footing or a foundation or a concrete platform. I did not bring pictures of those because they are not so impressive, Mr. Speaker. That is just water-covered concrete footings and nothing left.

There were trees were the wind blew so hard it simply blew the leaves off the tree and the trees died. The salt water that came in, of course, killed most everything green. That is another piece that we do not hear much about, Mr. Speaker.

I have saved this particular picture because, in a way, it is kind of heartbreaking. I was walking along a levee south of Slidell, Louisiana, a levee that runs over towards New Orleans. And as I looked at the devastation after devastation, debris after debris, it was numbing after a while. It is hard to be shocked. In fact, you just get that sense of how can anything be worse and you start counting things in the trees, like counting life jackets that are hanging from the trees, hundreds of them; and counting refrigerators up in the trees, and I will say dozens of them. Odd things that stick out in a person's mind.

I ended up with about 1,800 pictures, which when I go back and look at them, I see things in those pictures that I did not see when I was there in person. But this caught my eye. Laying on the ground beside a place that used to be a home, and it says Happy Anniversary. This has not been disturbed at all. It is exactly the way it laid. You can see where the grass is laid over the top of the handle. Whether it was a husband that bought that for the wife, or the wife for the husband, or the children for the parents, or whether it was the grandchildren for the grandparents, I do not know, but when I look at that, I see one of the doves that was on top is broken and laying here and it seems to reflect on what happened to some of the families that lost a loved one maybe have not found a loved one yet.

We have done a pretty good job of locating people, but the effort still goes on. And when the waters came up, and they came so fast that there might be a 17- to 20-foot surge that would go from zero to 17 to 20 feet in a matter of 3 minutes, maybe 4 minutes, that was not much time to get away. A lot of people had to go up the stairs of their house up to their attics. And when the water came and filled their attic, they needed something to chop their way out through the roof in order to climb out on the roof to save themselves from the flood.

I do not know how many people did not have a means to chop themselves out of their own attic. I do not know, but as I look at this, I cannot help but think that it may not be this family that lost someone, but I believe it represents many of the families that did lose someone who was celebrating their anniversary not all that long ago.

On the positive side, Mr. Speaker, this is a very resilient Nation, and we have a strong character and a strong resilience. We also have a sense of defiance, which is rooted back in the defiance of King George. So when we are met with disaster, no matter how bad the disaster, no matter how bad the blow, we have people that stand up and they look around and they think, all right, if that is the best you can give me, then I can take that and I am going to rebuild. I will put my life back together, my business back together, put my house back together, and I am going to live here and make it. I am going to be profitable and contribute back to this country and the neighborhood and the economy.

This is a symbol of that defiance, Mr. Speaker. This is one of the things that warmed my heart as we flew by there. The individual or the family that owned this place had lost almost everything. This is mostly trash and rubble. If you look up here, this is debris that has all been pushed over by the wind. That is just floating debris, and the water has been over the top of this levee. That is the Mississippi River right at the top of the picture.

As the owner came and found nothing, he did find a flag pole that was still standing. There is no way the flag that was on that flag pole originally survived that wind. But, Mr. Speaker, the first thing he did was went and got a fresh Old Glory and ran it up to the top of that flag pole in defiance of the storm and in proud independence that he would be, and I assume it is a he, rebuilding.

One day I will go back down there, and I hope I can identify that flag pole, because I think there is going to be some buildings that have been reconstructed again, and the place will one day look better than it did the day before the storm hit.

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We have a lot of big decisions to make: where the Federal dollars will go, where they will come from. We have an obligation to look for offsets. We cannot continue to put debt on the backs of our children and grandchildren. We can find the savings.

I am convinced that this Congress, working together in a bipartisan manner, will be able to find ways to save money so we can get the resources into the gulf coast to help out our friends in Texas, Mississippi, Louisiana and Alabama, and to a lesser extent some of Florida. I am hopeful that we can join together in a way to do that.

I have a few ideas myself. I am not going to enter into this debate here tonight with them, but I have been working on my own list on how to fund Hurricane Katrina's reconstruction. It is essential that we find offsets, and we can do some reconciliation legislation. It will be a blessing for us because we will find a way to make government more efficient. We will have that debate here. It will be on the floor of Congress.

But also finding ways to pay for it is not enough. We also have to spend the

money wisely. We need to limit it to the extent we can while still taking care of our obligations from the Federal Government.

I have looked at the things that we need to do to protect New Orleans again. It is below sea level. There was 16 feet of water standing in parts of New Orleans. That whole area with standing water is below sea level. We have to find a way, and there was discussion whether we could construct below sea level. Those questions landed on my ears. Actually, I thought they were prudent questions that needed to be asked, deliberated upon, and we need to bring more facts to the table before we can come up with a definitive answer.

But when you look at New Orleans and see the downtown buildings that rise up out of the water, and I was able to see it on a day when it was a bright blue sky, and the sunlight reflecting off the downtown buildings made the water blue, as the downtown buildings stood up, I looked and it was clear to me, yes, you cannot let a great city like New Orleans stand in water and not be reconstructed better than it was before. We need to rebuild the city, but we need to rebuild the city in a wise fashion.

My first recommendation is New Orleans, the levees that protect it and the systems that protect it from a hurricane, be constructed in preparation for a category 5 hurricane. If you can imagine a worse one, let us reconstruct for that. Let us do the hurricane mitigation work so the worst storm we can imagine cannot come in and do the kind of damage that Hurricane Katrina did to New Orleans.

The first step is as the water in Lake Pontchartrain increased by that 14 to 15-foot average water depth, and as it went up another 8 to 10 feet, because of the storm surge from the gulf, as the low pressure center raised the level of the water in the ocean and that hard south wind at 150 miles an hour drove that water up into the lake, stacked it up against the north shore of Lake Pontchartrain and filled that lake up with 8 to 10 feet more water, and then when the hurricane shifted to the east and winds came from the north, it drove that high wall of water down against the levees on the south side of Lake Pontchartrain. The waves added another 8 to 10 feet, it washed over the levees and flooded the city.

We know what happened, and to prevent it from happening again, I believe we need to do the engineering study, do the financial analysis, but repair the levees on the outlet of Lake Pontchartrain to a level that can protect Lake Pontchartrain itself from a category 5 hurricane so it cannot be breached, and to put hurricane gates in where necessary so we can close those in the event of a storm and keep the ocean water out of Lake Pontchartrain. That is step one.

Step two is if it gets in there or if there is a surge of the water in there, and I do not know if it is possible to have that kind of an effort under any kind of a storm, but if the water does get into Lake Pontchartrain, then we need to be prepared for the second level of protection.

That second level would be to build the levees between Lake Pontchartrain and New Orleans to an elevation that will protect New Orleans from 25 feet above sea level from a category 5, and then to put hurricane gates in at the inlets of the canals, the 17th Street Canal being the most infamous of them all. That can be done and protected. We need to come out with a cost and engineering analysis of that and make a decision in this Congress.

I believe if that cost is anywhere near reasonable, we need to get that done before there is new construction going on down below sea level in New Orleans itself. So that is two systems that would protect New Orleans from a flood.

I point out there is a significant amount of construction done in the world below sea level. Holland is one of those examples. I am told a third of Holland is below sea level; and when I was told that, I said they have reclaimed another portion from the sea since when I went to school and a fourth of the nation was underwater. That is probably the case. They continually reclaim. They construct below sea level. I believe we can do that in the area of New Orleans. I have some more questions from the engineering perspective that I do not have the answers to, but protect the outlet of Lake Pontchartrain to keep the ocean water out and storm surge out, and keep the water in Lake Pontchartrain there by putting gates at the inlet of the canals, and perhaps raise the level of the hurricane levees on Lake Pontchartrain.

The third thing is the pump stations have to be raised up well above the high water mark of this flood, and they need to have redundancies built in so they can pump water if the power goes out. If the power goes out, they automatically kick on. And the water that is being pumped out of New Orleans now over the last week and a half or so, it is a massive quantity of water. It is 27,000 cubic feet per second, more than twice the amount of water that runs down the Missouri River at Sioux City, Iowa, in the area where I live.

Mr. Speaker, Florida has a lot of experience with reconstructing in preparation for category 5 hurricanes. They have perfected a lot of the method of how to prepare for a hurricane, how to evacuate, how to zone the houses and the buildings so they are prepared for that kind of wind and damage. Requiring shutters is one thing, and building off the ground is another. There are a number of ideas from an architectural standpoint. There is much that has already been established. We should look at that opportunity to take the language of those zoning restrictions that they have and the emergency response system that they developed in Florida and bring that into Louisiana, Mississippi and parts of Texas; but Louisiana needing the most help, it appears.

I think we can learn from our experience. We need to also be able to have a Federal requirement on the construction of the levee so if there is a levee that can be breached and put that much property in jeopardy, we need to have Federal oversight over that levee. There is much that can be done and should be done.

I will be involved in the effort to identify the mitigation work and looking at the cost and the engineering design and the recommendations. I would also point out that there will be a population loss in New Orleans. I do not know that number, no one knows that number, but perhaps a loss of a quarter of the population, perhaps more. If that is the case, the homes that will be condemned, many are still under water today, that will be the last place that needs to be reconstructed.

The reconstruction of the homes can go in the higher elevation areas where they do not have water. Those decisions need to be made so people can make plans for the future. That is part of this Congress' responsibility. Wherever there are Federal dollars, we have an obligation to the taxpayers that they are spent wisely.

There are private sector solutions to this, and we need to listen to our representatives from that area, those that are advocating for less pressure on taxpayers and more pressure on individuals, and the solutions of tax credits and I will say commerce-friendly zones, tax free zones, for example, lay all of those ideas out on the table.

The gentleman from Louisiana (Mr. BOUSTANY) and the gentleman from Louisiana (Mr. JINDAL) both have been very active, along with the other Representatives from Louisiana. The gentleman from Louisiana (Mr. MCCRERY) has been very vocal here. I am looking forward to their input and working in cooperation with them so we put a solution together that will leave a legacy of making it better when things are bad in the event of Hurricane Katrina and Hurricane Rita.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2360, DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2006

Mr. COLE of Oklahoma (during the Special Order of Mr. KING of Iowa), from the Committee on Rules, submitted a privileged report (Rept. No. 109–242) on the resolution (H. Res. 474) waiving points of order against the conference report to accompany the bill (H.R. 2360) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes, which was referred to the House Calendar and ordered to be printed.

ADJOURNMENT TO MONDAY, OCTOBER 3, 2005, AND ADJOURNMENT FROM MONDAY, OCTOBER 3, 2005 TO THURSDAY, OCTOBER 6, 2005

Mr. COLE of Oklahoma (during the special order of Mr. KING of Iowa). Mr. Speaker, I ask unanimous consent that when the House adjourn today, it adjourn to meet at 4 p.m. on Monday next, and further, when the House adjourns on that day, it adjourn to meet at 10 a.m. on Thursday, October 6, 2005.

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

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. GUTIERREZ (at the request of Ms. PELOSI) for today on account of illness in the family.

Ms. KILPATRICK of Michigan (at the request of Ms. PELOSI) for today after 5:10 p.m. on account of personal reasons.

Mr. HOBSON (at the request of Mr. BLUNT) for today after 3:00 p.m. on account of official business.

Mr. CULBERSON (at the request of Mr. BLUNT) for today on account of business in the district.

Mr. GARY G. MILLER of California (at the request of Mr. BLUNT) for today after 5:15 p.m. on account of illness.

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:)

Mr. HOYER, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. SCHIFF, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mrs. DAVIS of California, for 5 minutes, today.

Mr. ENGEL, for 5 minutes, today.

Mr. STUPAK, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Mr. MELANCON, for 5 minutes, today.

Mr. RUSH, for 5 minutes, today.

Ms. PELOSI, for 5 minutes, today.

(The following Member (at the request of Mr. WESTMORELAND) to revise and extend his remarks and include extraneous material:)

Mr. FRANKS of Arizona, for 5 minutes, today.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1235. An act to amend title 38, United States Code, to extend the availability of $400,000 in life insurance coverage to servicemember and veterans, to make a stillborn child an insurable dependent for purposes of the Servicemembers' Group Life Insurance program, to make technical corrections to the Veterans Benefits Improvement Act of 2004, to make permanent a pilot program for direct housing loans for Native American veterans, and to require an annual plan on outreach activities of the Department of Veterans Affairs; t4o the Committee on Veterans Affairs.

S. 1786. An act to authorize the Secretary of Transportation to make emergency airport improvement project grants-in-aid under title 49, United States Code, for repairs and costs related to damage from Hurricanes Katrina and Rita; to the Committee on Transportation and Infrastructure.

S. 1778. An act to extend medicare cost-sharing for qualifying individuals through September 2006, to extend the Temporary Assistance for Needy Families Program, transitional medical assistance under the Medicaid Program, and related programs through March 31, 2006, and for other purposes; to the Committee on Energy and Commerce; 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.

ENROLLED BILLS SIGNED

Mr. Trandahl, Clerk of the House, reported and truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker.

H.R. 3864. An act to assist individuals with disabilities affected by Hurricane Katrina and Rita through vocational rehabilitations services.

SENATER ENROLLED BILLS SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1752. An act to amend the United States Grain Standards Act to reauthorize that Act.

ADJOURNMENT

Mr. KING of Iowa. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 42 minutes p.m.), under its previous order, the House adjourned until Monday, October 3, 2005, at 4 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

4300. A letter from the Acting Director, Defense Research and Engineering, Department of Defense, transmitting Notification of intent to obligate funds for test projects for inclusion in the Fiscal Year 2006 Foreign Comparative Testing (FCT) Program, pursuant to 10 U.S.C. 2350a(g); to the Committee on Armed Services.

4301. A letter from the Chairman and President, Export-Import Bank, transmitting a report on transactions involving U.S. exports to Mexico pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended; to the Committee on Financial Services.

4302. A letter from the Chairman and President, Export-Import Bank, transmitting a report on transactions involving U.S. exports to Mexico pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended; to the Committee on Financial Services.

4303. A letter from the Chairman and President, Export-Import Bank, transmitting a report on transactions involving U.S. exports to the United Arab Emirates pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended; to the Committee on Financial Services.

4304. A letter from the Secretary of the Commission, BCP, Federal Trade Commission, transmitting the Commission's final rule — Notice of Federal Trade Commission Publication Incorporating Model Forms and Procedures for Identity Theft Victims (RIN: 3084-AA94) received May 3, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

4305. A letter from the Acting Associate Administrator, Environmental Protection Agency, transmitting a copy of the Agency's report, ''Report on Congress on the Status of Environmental Education in the United States,'' pursuant to Public Law 101—619; to the Committee on Energy and Commerce.

4306. A letter from the Special Advisor, Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Implementation of Section 210 of the Satellite Home Viewer Extension and Reauthorization Act of 2004 to Amend Section 338 of the Communications Act [MB Docket No. 05-181] received September 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4307. A letter from the Associate Managing Director/PERM, Federal Communications Commission, transmitting the Commission's final rule — Assessment and Collection of Regulatory Fees for Fiscal Year 2005 [MD Docket No. 05-59]; Assessment and Collection of Regulatory Fees for Fiscal Year 2004 [MD Docket No. 04-73]; received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4308. A letter from the Attorney Advisor, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting the Commission's final rule — Section 68.4(a) of the Commission's Rules Governing Hearing Aid-Compatible Telephones [WT Docket No. 01-309] received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4309. A letter from the Legal Advisor, WTB, Federal Communications Commission, transmitting the Commission's final rule — Implementation of the Commercial Spectrum Enhancement Act and Modernization of the Commission's Competitive Bidding Rules and Procedures [WT Docket No. 05-211] received September 9, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4310. A letter from the Acting Chief, CGB3, Federal Communications Commission, transmitting the Commission's final rule — Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991 [CG Docket No. 02-278] received August 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4311. A letter from the Legal Advisor to the Bureau Chief, MB, Federal Communications Commission, transmitting the Commission's

final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Dallas, Oregon) [MB Docket No. 04-124; RM-10936; RM-10937; RM-10938; RM-10939] received July 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4312. A letter from the Legal Advisor to the Bureau Chief, MB, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations. (Colfax, Louisiana) [MB Docket No. 05-117; RM-11182]; (Moody, Texas) [MB Docket No. 05-119; RM-11184] received July 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4313. A letter from the Legal Advisor to the Bureau Chief, MB, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), FM Table of Allotments, FM Broadcast Stations. (Altheimer, Arkansas) [MB Docket No. 05-81; RM-11102] Reclassification of License of Station KURB(FM), Little Rock, Arkansas received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4314. A letter from the Legal Advisor to the Bureau Chief, MB, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Talladega and Munford, Alabama) [MB Docket No. 04-19; RM-10845) received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4315. A letter from the Legal Advisor to the Bureau Chief, MB, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Opal and Reliance, Wyoming and Bringham City, Woodruff, Price and Fountain Green, Utah) [MB Docket No. 02-294; RM-10543; RM-10774] received August 23,2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4316. A letter from the Legal Advisor to the Bureau Chief, MB, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations. (Big Spring, Texas) [MB Docket No. 05-137; RM-11161] received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4317. A letter from the Legal Advisor to the Bureau Chief, MB, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Morgan, Georgia) [MB Docket No. 02-109; RM-10420; RM-10546] received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4318. A letter from the Legal Advisor to the Bureau Chief, MB, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations. (Palacios, Texas) [MB Docket No. 04-330; RM-11051] received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4319. A letter from the Legal Advisor to the Bureau Chief, MB, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations. (San Luis Obispo and Lost Hills, California and Maricopa, California) [MB Docket No. 05-88; RM-11173; RM-11177] received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4320. A letter from the Legal Advisor to the Bureau Chief, MB, Federal Communictaions Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Georgetown, Mason, Oxford and West Union, Ohio, and Salt Lick, Kentucky) [MB Docket No. 04-0411; RM-11096] received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4321. A letter from the Secretary of the Commission, BCP, Federal Trade Commission, transmitting the Commission's final rule — Telemarketing Sales Rule Fees (RIN: 3084-0098) received September 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

4322. A letter from the Presidential Appointments Officer, Department of State, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

4323. A letter from the Presidential Appointments Officer, Department of State, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

4324. A letter from the Presidential Appointments Officer, Department of State, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

4325. A letter from the Presidential Appointments Officer, Department of State, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

4326. A letter from the Presidential Appointments Officer, Department of State, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

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4328. A letter from the Presidential Appointments Officer, Department of State, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

4329. A letter from the Presidential Appointments Officer, Department of State, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

4330. A letter from the Presidential Appointments Officer, Department of State, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

4331. A letter from the Presidential Appointments Officer, Department of State, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

4332. A letter from the Presidential Appointments Officer, Department of State, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

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4337. A letter from the Presidential Appointments Officer, Department of State, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

4338. A letter from the Chairman, Federal Energy Regulatory Commission, transmitting the Commission's Year 2005 Inventory of Commercial Activities, as required by the Federal Activities Reform Act of 1997, Pub. L. 105-270; to the Committee on Government Reform.

4339. A letter from the Chairman, Federal Election Commission, transmitting the Commission's final rule — Payroll Deductions by Member Corporations for Contributions To a Trade Association's Seperate Segregated Fund [Notice 2005-18] received August 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on House Administration.

4340. A letter from the Chairman, Federal Election Commission, transmitting the Commission's final rule — Payroll Deductions by Member Corporations for Contributions To a Trade Association's Seperate Segregated Fund [Notice 2005-18] received August 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on House Administration.

4341. A letter from the Assistant Secretary, Land and Minerals Management, Department of the Interior, transmitting the Department's final rule — Oil, Gas, and Sulphur Operations and Leasing in the Outer Continental Shelf (OCS)-Cost Recovery (RIN: 1010-AD16) received August 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4342. A letter from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting the Department's final rule — Migratory Bird Hunting; Regulations on Certain Federal Indian Reservations and Ceded Lands for the 2005-06 Late Season (RIN: 1018-AT76) received September 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4343. A letter from the Assistant Secretary for Fish and Wildlife Management, Department of the Interior, transmitting the Department's final rule — Migratory Bird Hunting; Final Frameworks for Late-Season Migratory Bird Hunting Regulations (RIN: 1018-AT76) received September 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4344. A letter from the Assistant Secretary for Fish and Wildlife Management, Department of the Interior, transmitting the Department's final rule — Migratory Bird Hunting; Late Seasons and Bag and Possession Limits for Certain Migratory Game Birds (RIN: 1018-AT76) received September 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4345. A letter from the Assistant Secretary for Fish and Wildlife Management, Department of the Interior, transmitting the Department's final rule — 2005-2006 Refuge-Specific Hunting and Sport Fishing Regulations (RIN: 1018-AU14) received September 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4346. A letter from the Secretary, Department of Health and Human Services, transmitting a petition on behalf of a class of workers from the Iowa Army Ammunition Plant (IAAP) in Burlington, Iowa, to have IAAP added to the Special Exposure Cohort (SEC), pursuant to the Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA); to the Committee on the Judiciary.

4347. A letter from the Secretary, Department of Health and Human Services, transmitting a petition on behalf of a class of workers from the Y-12 facility in Oak Ridge, Tennessee to be added to the Special Exposure Cohort (SEC), pursuant to the Energy

Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA); to the Committee on the Judiciary.

4348. A letter from the Secretary and Attorney General, Departments of Health and Human Services and Justice, transmitting the eighth Annual Report on the Health Care Fraud and Abuse Control (HCFAC) Program for Fiscal Year 2004, pursuant to 42 U.S.C. 1395i; jointly to the Committees on Energy and Commerce and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered by the Clerk for printing and reference to the proper calendar, as follows:

Mr. ROGERS of Kentucky: Committee of Conference. Conference report on H.R. 2360. A bill making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes (Rept. 109–241) Ordered to be printed.

Mr. SESSIONS: Committee on Rules. House Resolution 474. Resolution waiving points of order against the conference report to accompany the bill (H.R. 2360) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes (Rept. 109–242). Referred to the House Calendar.

Mr. HUNTER: Committee on Armed Services. House Joint Resolution 65. Resolution disapproving the recommendations of the Defense Base Closure and Realignment Commission, adversely; (Rept. 109–243). 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. HAYWORTH (for himself, Mr. MILLER of Florida, Mr. SESSIONS, Ms. FOXX, Mr. SAM JOHNSON of Texas, Mr. JONES of North Carolina, Mr. KING of Iowa, Mr. TANCREDO, Mr. RENZI, Mr. NORWOOD, Mr. DEAL of Georgia, Mr. POE, Mr. GUTKNECHT, Mr. GARY G. MILLER of California, Mr. CALVERT, Mr. FRANKS of Arizona, Mr. HUNTER, Mrs. KELLY, Mr. CARTER, Mr. GOODE, Mr. EVERETT, Mr. DUNCAN, Mr. GOHMERT, and Mr. MCCOTTER):

H.R. 3938. A bill to provide for comprehensive immigration reform; to the Committee on the Judiciary, and in addition to the Committees on Armed Services, Ways and Means, Financial Services, Homeland Security, and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. AKIN (for himself and Mr. CASE):

H.R. 3939. A bill to direct the Administrator of the Small Business Administration to establish Veterans Business Outreach Centers and Technical Mentoring Assistance Committees; to the Committee on Small Business.

By Mr. PRICE of Georgia (for himself and Mr. KLINE):

H.R. 3940. A bill to extend implementation of the Medicare prescription drug program, and for other purposes; 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. PRICE of Georgia:

H.R. 3941. A bill to provide for the establishment of a working group to identify and advance the development and use of alternative sources for motor vehicle fuels; to the Committee on Energy and Commerce.

By Mr. SENSENBRENNER (for himself and Mr. CONYERS):

H.R. 3942. A bill to establish a Federal Office of Steroids Testing Enforcement and Prevention to establish and enforce standards for the testing for the illegal use in professional sports of performance enhancing substances and other controlled substances; to the Committee on the Judiciary, and in addition to the Committees on 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. YOUNG of Alaska (for himself, Mr. PETRI, Mr. DEFAZIO, Mr. SESSIONS, Mrs. EMERSON, Mr. MATHESON, Mr. BUYER, Mr. BOEHNER, Mr. SIMPSON, Mr. SODREL, Mr. MCCAUL of Texas, Mr. WILSON of South Carolina, Mr. MARCHANT, and Mr. BISHOP of Utah):

H.R. 3943. A bill to postpone the enforcement of new rules governing rest periods for truck drivers using sleeper berths until January 1, 2006; to the Committee on Transportation and Infrastructure.

By Mr. ALLEN (for himself, Mr. MCHUGH, Mr. MARKEY, Mr. BROWN of Ohio, Ms. SOLIS, Mrs. CAPPS, and Mr. GRIJALVA):

H.R. 3944. A bill to amend the Internal Revenue Code of 1986 to allow a temporary credit against income tax to offset the high fuel costs of small businesses, farmers, and fishermen; to the Committee on Ways and Means.

By Mr. BAKER (for himself, Mr. JEFFERSON, Mr. BOUSTANY, Mr. MCCRERY, Mr. JINDAL, Mr. ALEXANDER, and Mr. MELANCON):

H.R. 3945. A bill to facilitate recovery from the effects of Hurricane Katrina by providing greater flexibility for, and temporary waivers of certain requirements and fees imposed on, depository institutions and Federal regulatory agencies, and for other purposes; to the Committee on Financial Services.

By Mr. BAKER (for himself, Mr. MCCRERY, Mr. JEFFERSON, Mr. ALEXANDER, Mr. JINDAL, Mr. BOUSTANY, and Mr. MELANCON):

H.R. 3946. A bill to provide a temporary waiver from certain transportation conformity requirements and metropolitan transportation planning requirements under the Clean Air Act and under other laws for certain areas in Louisiana affected by Hurricane Katrina, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. BLACKBURN (for herself, Mr. TANNER, Mr. GARRETT of New Jersey, Mr. WILSON of South Carolina, Mr. GARY G. MILLER of California, and Mr. BARTLETT of Maryland):

H.R. 3947. A bill to amend the Internal Revenue Code of 1986 to authorize the Federal Government to guarantee tax exempt bonds for the purpose of rebuilding the Gulf Coast from the impacts of Hurricanes Katrina and Rita; to the Committee on Ways and Means.

By Mr. BROWN of Ohio (for himself and Mr. STRICKLAND):

H.R. 3948. A bill to amend title 38, United States Code, to eliminate the deductible and change the method of determining the mileage reimbursement rate for the beneficiary travel program administered by the Secretary of Veterans Affairs; to the Committee on Veterans' Affairs.

By Mr. CASTLE (for himself, Mr. ANDREWS, Mr. WELDON of Pennsylvania, and Mr. PASCRELL):

H.R. 3949. A bill to protect volunteer firefighters and emergency medical services personnel responding to national emergencies from termination or demotion in their places of employment; to the Committee on Education and the Workforce.

By Ms. DELAURO (for herself and Mrs. EMERSON):

H.R. 3950. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to drug advertising, and for other purposes; to the Committee on Energy and Commerce.

By Mr. FRANK of Massachusetts:

H.R. 3951. A bill to require compensation for jury service to be excluded in determining income for purposes of the supplemental security income program under title XVI of the Social Security Act; to the Committee on Ways and Means.

By Mr. GINGREY:

H.R. 3952. A bill to provide emergency health care relief for survivors of Hurricane Katrina, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, the Budget, Government Reform, 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 Ms. HARRIS (for herself and Ms. ROS-LEHTINEN):

H.R. 3953. A bill to authorize 4 permanent and 1 temporary additional judgeships for the middle district of Florida, and 3 additional permanent judgeships for the southern district of Florida; to the Committee on the Judiciary.

By Ms. HERSETH (for herself, Mr. SCHIFF, Mr. FILNER, Mr. EMANUEL, Mr. HIGGINS, Mr. PALLONE, Mr. GRIJALVA, Mrs. TAUSCHER, Ms. MATSUI, Mr. VAN HOLLEN, Mr. BROWN of Ohio, Mr. DAVIS of Florida, Mr. BISHOP of Utah, Ms. BALDWIN, Mr. OLVER, Mr. WEXLER, Ms. SOLIS, Ms. KAPTUR, Mr. NADLER, Mr. MEEKS of New York, Mr. CONYERS, Mr. WAXMAN, Mr. BERRY, Ms. SCHAKOWSKY, Mr. GENE GREEN of Texas, Mr. LANTOS, Mr. MCDERMOTT, Mrs. MALONEY, Mr. MEEHAN, Mr. LARSON of Connecticut, Mrs. DAVIS of California, Mr. KILDEE, Mr. GEORGE MILLER of California, and Mr. ROSS):

H.R. 3954. A bill to amend the Social Security Act to protect Social Security cost-of-living adjustments (COLA); 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. KING of Iowa:

H.R. 3955. A bill to amend the Controlled Substances Act to provide for the transfer of ephedrine, pseudoephedrine, and phenylpropanolamine to schedule V of the schedules of controlled substances, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KUHL of New York:

H.R. 3956. A bill to provide for a drug discount program for individuals without prescription drug coverage; 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. LEWIS of Kentucky (for himself, Mr. RANGEL, Mr. ENGLISH of Pennsylvania, Mr. JEFFERSON, and Mrs. JOHNSON of Connecticut):

H.R. 3957. A bill to amend the Internal Revenue Code of 1986 to extend the new markets tax credit; to the Committee on Ways and Means.

By Mr. MELANCON:

H.R. 3958. A bill to provide disaster relief and incentives for economic recovery for Louisiana residents and businesses affected by Hurricane Katrina; to the Committee on Ways and Means, and in addition to the Committees on Appropriations, Agriculture, Transportation and Infrastructure, the Budget, Financial Services, Energy and Commerce, the Judiciary, Armed Services, Education and the Workforce, Resources, and Small Business, 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. NEAL of Massachusetts (for himself, Mr. MCDERMOTT, Mr. LEWIS of Georgia, Ms. DELAURO, Mr. THOMPSON of California, Mr. DOGGETT, Mr. LEVIN, Mr. EMANUEL, Mr. STARK, Mr. VISCLOSKY, and Mr. PASCRELL):

H.R. 3959. A bill to amend the Internal Revenue Code of 1986 to prevent corporate expatriation to avoid United States income taxes; to the Committee on Ways and Means.

By Mr. NEUGEBAUER:

H.R. 3960. A bill to amend chapters 95 and 96 of the Internal Revenue Code of 1986 to terminate taxpayer financing of presidential election campaigns; to the Committee on Ways and Means, and in addition to the Committee on House Administration, 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. RENZI (for himself, Mr. PASTOR, and Mr. HAYWORTH):

H.R. 3961. A bill to authorize the National Park Service to pay for services rendered by subcontractors under a General Services Administration Indefinite Deliver/Indefinite Quantity Contract issued for work to be completed at the Grand Canyon National Park; to the Committee on Resources.

By Mr. SCHWARZ of Michigan:

H.R. 3962. A bill to amend the Public Health Service Act to provide liability protections for employees and contractors of health centers under section 330 of such Act who provide health services in emergency areas; to the Committee on Energy and Commerce.

By Mr. SIMMONS (for himself, Mrs. JOHNSON of Connecticut, Mr. SHAYS, Mr. LARSON of Connecticut, Ms. DELAURO, Mr. ISRAEL, Mr. BISHOP of New York, Mr. CROWLEY, Mr. ENGEL, Mrs. LOWEY, Mr. KING of New York, and Mr. ACKERMAN):

H.R. 3963. A bill to amend the Federal Water Pollution Control Act to extend the authorization of appropriations for Long Island Sound; to the Committee on Transportation and Infrastructure.

By Ms. SLAUGHTER (for herself and Mr. LARSON of Connecticut):

H.R. 3964. A bill to prohibit anticompetitive provisions in gasoline dealer franchise agreements that dictate the wholesale source of gasoline; to the Committee on Energy and Commerce.

By Mr. TIAHRT:

H.R. 3965. A bill to amend title 38, United States Code, to prohibit the interment or memorialized in national cemeteries of persons convicted of committing State capital crimes regardless of whether their sentences included parole; to the Committee on Veterans' Affairs.

By Mr. UDALL of Colorado (for himself, Mr. CHABOT, Mr. FLAKE, and Mrs. MUSGRAVE):

H.R. 3966. A bill to facilitate Presidential leadership and Congressional accountability regarding reduction of other spending to offset costs of responding to recent natural disasters; to the Committee on the Budget, 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 Mr. PITTS (for himself, Mr. WILSON of South Carolina, Mr. MANZULLO, Mr. PUTNAM, Mr. COLE of Oklahoma, Mr. DREIER, Mr. REYNOLDS, and Mr. ROYCE):

H. Con. Res. 256. Concurrent resolution commending the people of Mongolia for building strong, democratic institutions, and expressing the support of the Congress for efforts by the United States to continue to strengthen its partnership with that country; to the Committee on International Relations.

By Mr. RENZI (for himself and Mr. MATHESON):

H. Con. Res. 257. Concurrent resolution expressing the sense of the Congress with regard to a moratorium on the payment of principal or interest on certain mortgage loans, small business loans, and consumer loans for residents of a Federal disaster area; to the Committee on Financial Services.

By Ms. EDDIE BERNICE JOHNSON of Texas (for herself, Mr. MEEKS of New York, Mr. HONDA, Mr. LANTOS, Mr. CONYERS, Mrs. JONES of Ohio, Mr. GRIJALVA, Mr. ROTHMAN, Ms. MCCOLLUM of Minnesota, Mr. BURTON of Indiana, Ms. BERKLEY, Mr. HOLT, Ms. JACKSON-LEE of Texas, Mr. DINGELL, Mr. FILNER, Mr. ABERCROMBIE, Mr. SERRANO, Ms. SCHAKOWSKY, Ms. LEE, Mr. FEENEY, Mr. HINCHEY, and Mr. ACKERMAN):

H. Res. 472. A resolution recognizing the commencement of Ramadan, the Islamic holy month of fasting and spiritual renewal, and commending Muslims in the United States and throughout the world for their faith; to the Committee on International Relations.

By Mr. RUSH:

H. Res. 473. A resolution condemning the racist remarks of William Bennett; to the Committee on the Judiciary.

By Mr. DELAHUNT (for himself and Mr. DOGGETT):

H. Res. 475. A resolution expressing disapproval of further payments by the Government of the United States to the Government of Uzbekistan relating to facilities at the Karshi-Khanabad airbase and urging the United Nations Security Council to refer the situation of Uzbek President Islam Karimov and the massacre at Andijan of May 13, 2005, to the International Criminal Court; to the Committee on International Relations.

By Mr. KING of New York (for himself and Mr. TOWNS):

H. Res. 476. A resolution recognizing the 50th anniversary of the Brooklyn Dodgers victory over the New York Yankees in the World Series; to the Committee on Government Reform.

By Ms. SOLIS (for herself, Mr. HASTINGS of Florida, Mr. PALLONE, Mr. HINCHEY, Ms. PELOSI, Mr. GEORGE MILLER of California, Mr. NADLER, Mrs. CAPPS, Mr. CROWLEY, Mr. MENENDEZ, Mr. HONDA, Mr. ALLEN, Ms. BALDWIN, Mr. BLUMENAUER, Mr. JEFFERSON, Mr. SERRANO, Mr. PAYNE, Mr. OWENS, Ms. MATSUI, Mr. DAVIS of Florida, Mr. GRIJALVA, Mr. LEWIS of Georgia, Mr. CLYBURN, Mr. BERMAN, Ms. SCHWARTZ of Pennsylvania, Mr. WEXLER, Ms. KAPTUR, Mr. MCGOVERN, Ms. LEE, Mr. DOGGETT, Mr. KUCINICH, Ms. LINDA T. SÓNCHEZ of California, Mr. CONYERS, Mr. ANDREWS, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. BISHOP of New York, Mr. RANGEL, Mr. VAN HOLLEN, Mr. UDALL of Colorado, Mrs. NAPOLITANO, Mrs. CHRISTENSEN, and Ms. KILPATRICK of Michigan):

H. Res. 477. A resolution expressing the sense of the House of Representatives that the crisis of Hurricane Katrina should not be used to weaken, waive, or roll back Federal public health, environmental, and environmental justice laws and regulations, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Resources, 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.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 11: Mr. HIGGINS.

H.R. 23: Mr. EVANS and Ms. BALDWIN.

H.R. 25: Mr. BURTON of Indiana.

H.R. 95: Mr. ALEXANDER.

H.R. 98: Mr. HUNTER.

H.R. 224: Mr. FILNER, Mr. HOLDEN, Mr. DEFAZIO, and Mr. SCOTT of Georgia.

H.R. 282: Mr. BOEHNER, Mr. WESTMORELAND, Mr. OXLEY, and Mr. OTTER.

H.R. 328: Mr. CUMMINGS.

H.R. 371: Mr. MCCAUL of Texas, Mr. LANGEVIN, Mr. SHERWOOD, and Mr. MARKEY.

H.R. 583: Mr. COOPER.

H.R. 670: Mr. INGLIS of South Carolina.

H.R. 698: Mr. HAYWORTH.

H.R. 719: Mr. COSTA and Mr. CLAY.

H.R. 759: Mr. MEEHAN.

H.R. 808: Mr. SMITH of Washington.

H.R. 839: Mr. RUPPERSBERGER and Mr. MICHAUD.

H.R. 857: Mr. SCHIFF.

H.R. 877: Mr. MCHUGH.

H.R. 881: Mr. KENNEDY of Rhode Island and Mr. ROTHMAN.

H.R. 910: Mr. EMANUEL and Mr. UDALL of Colorado.

H.R. 923: Mrs. CHRISSTENSEN, Mr. PLATTS, Mrs. MALONEY, Mr. LANTOS, Mr. DUNCAN, and Mr. SIMPSON.

H.R. 947: Mr. YOUNG of Alaska.

H.R. 994: Mr. KING of New York and Mr. LEACH.

H.R. 1079: Mr. EVERETT.

H.R. 1103: Mr. ANDREWS.

H.R. 1121: Mr. BRADLEY of New Hampshire.

H.R. 1125: Mr. NADLER and Mr. BAIRD.

H.R. 1131: Ms. LEE, Ms. PELOSI, Mr. DUNCAN, Mr. FORD, Mr. NEUGEBAUER, Mrs. BIGGERT, Mr. COOPER, and Mr. DENT.

H.R. 1176: Mrs. Drake.

H.R. 1188: Mr. PETERSON of Minnesota, Mr. MATHESON, and Mr. CROWLEY.

H.R. 1194: Ms. MATSUI.

H.R. 1202: Mr. HOEKSTRA.

H.R. 1222: Ms. CORRINE BROWN of Florida, Mr. HONDA, Mr. MCDERMOTT, Mr. KILDEE, Mr.

MEEKS of New York, Mr. LYNCH, and Mr. MCNULTY.
H.R. 1272: Mr. NEAL of Massachusetts.
H.R. 1281: Ms. BEAN.
H.R. 1288: Mr. ROYCE and Mr. POMBO.
H.R. 1298: Mr. BACHUS.
H.R. 1386: Mr. EVANS.
H.R. 1400: Ms. WASSERMAN SCHULTZ and Mr. SCOTT of Virginia.
H.R. 1441: Mr. WALSH, Mrs. JONES of Ohio, Ms. HERSETH, and Mr. JACKSON of Illinois.
H.R. 1471: Mr. LANGEVIN.
H.R. 1507: Mr. JACKSON of Illinois.
H.R. 1545: Mr. ENGEL.
H.R. 1548: Mr. MOORE of Kansas, Mr. SCOTT of Georgia, Mr. CLAY, Mr. BRADY of Pennsylvania, Mrs. MALONEY, Mr. HAYES, Mr. MEEKS of New York, Mr. SCHWARZ of Michigan, and Mr. OXLEY.
H.R. 1558: Mr. SABO.
H.R. 1561: Mrs. JO ANN DAVIS of Virginia and Mr. MOORE of Kansas.
H.R. 1602: Mr. PETERSON of Minnesota.
H.R. 1665: Ms. WOOLSEY.
H.R. 1671: Mr. ALEXANDER.
H.R. 1704: Mr. VAN HOLLEN and Mr. SHERMAN.
H.R. 1709: Mr. TIERNEY.
H.R. 1736: Mrs. MILLER of Michigan.
H.R. 1767: Mr. SHUSTER.
H.R. 1814: Mr. BAIRD.
H.R. 1898: Mrs. MILLER of Michigan.
H.R. 1973: Mr. MOORE of Kansas.
H.R. 2048: Mr. MORAN of Kansas and Mr. LANTOS.
H.R. 2052: Mr. VAN HOLLEN.
H.R. 2053: Mr. VAN HOLLEN.
H.R. 2058: Mr. GRIJALVA.
H.R. 2070: Ms. LINDA T. SÁNCHEZ of California.
H.R. 2112: Mr. GARY G. MILLER of California.
H.R. 2121: Mr. WATT, Mr. KIND, and Mr. KANJORSKI.
H.R. 2178: Mr. SHERMAN.
H.R. 2234: Mr. CLAY, Ms. SOLIS, Mr. DAVIS of Florida, and Mr. NEUGEBAUER.
H.R. 2237: Mr. WAXMAN.
H.R. 2498: Ms. MCCOLLUM of Minnesota.
H.R. 2525: Mr. PETERSON of Minnesota.
H.R. 2533: Mr. EHLERS and Mr. COSTA.
H.R. 2562: Mr. HONDA.
H.R. 2592: Mr. CROWLEY.
H.R. 2594: Mr. GONZALEZ.
H.R. 2669: Ms. ROYBAL-ALLARD, Mr. LOBIONDO, Mrs. NAPOLITANO, Mr. SHERMAN, and Ms. CARSON.
H.R. 2671: Mr. MICHAUD, Mr. PALLONE, Mr. LATHAM, Mr. KENNEDY of Rhode Island, Mr. GRIJALVA, and Mr. SCOTT of Georgia.
H.R. 2694: Mr. FILNER.
H.R. 2799: Mr. HOBSON and Mr. HINCHEY.
H.R. 2835: Mr. FILNER.
H.R. 2872: Mr. GILCHREST, Mr. DOOLITTLE, Mr. COSTELLO, Ms. PRYCE of Ohio, Mr. TIBERI, Ms. GINNY BROWN-WAITE of Florida, Mr. PASCRELL, Ms. CORRINE BROWN of Florida, Mr. MILLER of Florida, and Mr. TURNER.
H.R. 2952: Ms. LINDA T. SÁNCHEZ of California and Mr. ORTIZ.
H.R. 2961: Mr. MATHESON, Mr. BERRY, and Mr. LATHAM.
H.R. 2990: Ms. HART.
H.R. 3072: Mr. CLAY.
H.R. 3098: Ms. MOORE of Wisconsin, Mr. MARCHANT, Mr. ETHERIDGE, Mr. CONAWAY, Mr. FOLEY, Mr. PUTNAM, Mr. KING of Iowa, Mr. GREEN of Wisconsin, Mr. PEARCE, Mr. MILLER of Florida, and Mr. JENKINS.
H.R. 3111: Mr. BROWN of South Carolina.
H.R. 3137: Mr. TAYLOR of North Carolina.
H.R. 3145: Mr. BOUCHER and Mr. FILNER.
H.R. 3163: Mr. PETRI.
H.R. 3183: Mr. DEFAZIO and Mr. MOORE of Kansas.
H.R. 3188: Mr. LARSEN of Washington and Mr. HOLT.
H.R. 3301: Mr. SAM JOHNSON of Texas and Mrs. JOHNSON of Connecticut.
H.R. 3307: Mr. DOYLE and Mr. PRICE of North Carolina.
H.R. 3313: Mr. MCGOVERN, Mrs. DAVIS of California, and Mr. BRADY of Pennsylvania.
H.R. 3326: Mr. KUCINICH.
H.R. 3334: Ms. SOLIS, Mr. LANTOS, Mrs. JONES of Ohio, Mr. ISRAEL, Ms. CARSON, Mr. MORAN of Virginia, Mr. WEINER, Mr. KUCINICH, Mr. ABERCROMBIE, Mr. ROSS, and Mr. SHERWOOD.
H.R. 3360: Mr. LEWIS of Kentucky.
H.R. 3373: Mrs. JO ANN DAVIS of Virginia, Mr. EVERETT, Mr. FOSSELLA, Mr. MOLLOHAN, Mr. SNYDER, Mr. GOODLATTE, Ms. SLAUGHTER, Ms. HARRIS, Mr. CRAMER, and Mr. NEUGEBAUER.
H.R. 3380: Mr. PASTOR.
H.R. 3385: Mr. WU.
H.R. 3436: Mrs. JO ANN DAVIS of Virginia.
H.R. 3505: Mr. MCCAUL of Texas.
H.R. 3548: Mr. MCHUGH.
H.R. 3561: Mr. FARR.
H.R. 3563: Ms. VELÁZQUEZ and Mr. LIPINSKI.
H.R. 3577: Mr. LOBIONDO.
H.R. 3628: Mr. KUHL of New York and Mr. BOSWELL.
H.R. 3638: Ms. MCCOLLUM of Minnesota and Mr. MCHUGH.
H.R. 3644: Mr. CROWLEY, Mr. BRADY of Pennsylvania, Mr. CONAWAY, Mrs. MCCARTHY, and Mr. MCCAUL of Texas.
H.R. 3662: Mr. TIERNEY.
H.R. 3666: Mr. CONYERS.
H.R. 3670: Mr. CONYERS.
H.R. 3684: Mr. HEFLEY and Mr. INGLIS of South Carolina.
H.R. 3693: Mr. GARY G. MILLER of California.
H.R. 3696: Mr. HINCHEY.
H.R. 3697: Mr. MENENDEZ, Mr. HASTINGS of Florida, Mr. GUTIERREZ, Mr. BRADY of Pennsylvania, and Mr. CUMMINGS.
H.R. 3698: Mr. TIERNEY.
H.R. 3711: Mr. GUTIERREZ, Mr. BERMAN, Mr. KUCINICH, and Mr. GENE GREEN of Texas.
H.R. 3714: Mr. BOYD.
H.R. 3717: Mr. KUHL of New York, Mr. CONAWAY, Mr. MARCHANT, and Mr. ROGERS of Kentucky.
H.R. 3722: Mr. CLAY.
H.R. 3727: Mr. CONYERS.
H.R. 3731: Mr. CONYERS.
H.R. 3737: Mr. MILLER of Florida, Mrs. KELLY, Mr. FOLEY, and Mr. KIND.
H.R. 3754: Ms. HERSETH.
H.R. 3762: Mr. SMITH of Washington, Mrs. MCCARTHY, Mr. HOLDEN, Mr. FATTAH, and Mr. LANTOS.
H.R. 3764: Mr. CARDOZA, Mr. JEFFERSON, Ms. BORDALLO, Mr. OBERSTAR, Mr. PASTOR, Mr. WATT, Mr. JACKSON of Illinois, Ms. WATERS, Ms. MCKINNEY, Mr. MELANCON, Mr. WAXMAN, and Ms. LORETTA SANCHEZ of California.
H.R. 3774: Mr. GUTIERREZ, Mr. CLEAVER, and Mr. STRICKLAND.
H.R. 3776: Ms. GINNY BROWN-WAITE of Florida, Mr. GARY G. MILLER of California, Mrs. DRAKE, and Mr. MCCAUL of Texas.
H.R. 3779: Mr. CAPUANO.
H.R. 3785: Mr. GARRETT of New Jersey.
H.R. 3792: Mrs. LOWEY.
H.R. 3796: Mr. MCNULTY and Mr. VAN HOLLEN.
H.R. 3800: Mr. MCHUGH, Mr. STARK, and Mr. FARR.
H.R. 3811: Mr. MCCAUL of Texas and Mr. CONAWAY.
H.R. 3829: Mr. LUCAS.
H.R. 3837: Ms. DELAURO and Mr. CONYERS.
H.R. 3838: Mr. MCDERMOTT, Mr. KUCINICH, and Mr. BECERRA.
H.R. 3858: Ms. DELAURO, Mrs. DAVIS of California, Mr. PASTOR, Mr. VAN HOLLEN, Mr. LYNCH, Mr. MATHESON, Ms. KILPATRICK of Michigan, Mr. PAYNE, Mr. GEORGE MILLER of California, Mr. MORAN of Virginia, Mr. ABERCROMBIE, and Mr. HOLT.
H.R. 3860: Mr. JONES of North Carolina, Mr. TIAHRT, Mrs. SCHMIDT, Mr. HUNTER, Mr. BUYER, Mr. BURTON of Indiana, and Mr. MCHENRY.
H.R. 3888: Mr. KUCINICH, Ms. MATSUI, Mr. ABERCROMBIE, and Mr. RANGEL.
H.R. 3889: Mr. DEFAZIO, Mrs. CAPITO, Mr. KLINE, Mrs. EMERSON, and Mr. ALEXANDER.
H.R. 3895: Mr. MCCRERY.
H.R. 3896: Mr. MCCRERY.
H.R. 3905: Mr. MENENDEZ and Mr. THOMPSON of Mississippi.
H.R. 3908: Mrs. DRAKE, Mr. SMITH of New Jersey, Mrs. BLACKBURN, Mr. RADANOVICH, Ms. PRYCE of Ohio, Mr. WOLF, Mr. HYDE, Mr. LINCOLN DIAZ-BALART of Florida, Mr. WALSH, Mr. FORTUÑO, Mr. ROGERS of Kentucky, Mr. TURNER, Mr. BOUSTANY, Mr. MURPHY, and Mr. MCHUGH.
H.R. 3909: Mr. HINOJOSA.
H.R. 3916: Mr. STARK and Mr. PAYNE.
H.R. 3925: Mr. GRIJALVA, Mrs. MALONEY, Mr. MCDERMOTT, Mr. DOGGETT, Ms. MCKINNEY, and Mr. SHERMAN.
H.R. 3931: Mr. TURNER and Mrs. JOHNSON of Connecticut.
H. Con. Res. 137: Mr. BROWN of Ohio.
H. Con. Res. 157: Mr. NADLER.
H. Con. Res. 173: Mr. PUTNAM.
H. Con. Res. 174: Mr. LANTOS and Ms. SOLIS.
H. Con. Res. 177: Mr. BERMAN, Mr. WELDON of Pennsylvania, and Mr. MCCOTTER.
H. Con. Res. 222: Mrs. JO ANN DAVIS of Virginia.
H. Con. Res. 228: Mrs. DAVIS of California, Ms. ROS-LEHTINEN, Mrs. BLACKBURN, Mr. BRADY of Pennsylvania, Mr. ISSA, Mr. LANTOS, Mr. PETERSON of Minnesota, Mr. CONYERS, and Mr. MCINTYRE.
H. Con. Res. 230: Mr. BECERRA, Mr. GOODLATTE, Ms. BALDWIN, and Mr. MCCAUL of Texas.
H. Con. Res. 244: Mr. PITTS.
H. Con. Res. 247: Mr. DAVIS of Illinois, Mr. MILLER of North Carolina, and Ms. WOOLSEY.
H. Con. Res. 248: Mr. CAPUANO, Ms. KILPATRICK of Michigan, Mr. MCHUGH, and Ms. WOOLSEY.
H. Con. Res. 250: Mrs. BONO and Mr. CALVERT.
H. Con. Res. 251: Mr. KIND, Ms. HARMAN, Mr. TAYLOR of Mississippi, Mr. PETERSON of Minnesota, Ms. BEAN, Mr. KIRK, Mr. SANDERS, Ms. HERSETH, Mr. SENSENBRENNER, Mr. CASE, Mr. SNYDER, Ms. HARRIS, and Mr. GOODE.
H. Res. 137: Mr. SHUSTER, Mr. HALL, and Mr. ENGLISH of Pennsylvania.
H. Res. 276: Mr. SHERMAN, Mr. KOLBE, Mr. LARSEN of Washington, and Mr. FILNER.
H. Res. 316: Mr. DENT and Mr. PASTOR.
H. Res. 368: Mr. LINCOLN DIAZ-BALART of Florida and Mr. CARNAHAN.
H. Res. 389: Mr. MCINTYRE, Mr. OLVER, and Mr. SNYDER.
H. Res. 438: Mr. GENE GREEN of Texas, Ms. WASSERMAN Schultz, Mr. SHIMKUS, and Mr. KUHL of New York.
H. Res. 453: Mr. BISHOP of Georgia, Mr. BURTON of Indiana, Mr. MCHUGH, Mr. GRAVES, Mr. ALEXANDER, Mr. MILLER of Florida, Mr. TAYLOR of North Carolina, Mr. MATHESON, Mr. GENE GREEN of Texas, and Mr. GARRETT of New Jersey.
H. Res. 457: Mrs. CHRISSTENSEN, Mr. HALL, Mr. BOEHLERT, and Mr. WU.
H. Res. 463: Mr. LANGEVIN.

PETITIONS, ETC.

Under clause 3 of rule XII,

72. The SPEAKER presented a petition of the Cook County Board of Commissioners, Illinois, relative to a resolution dated June 21, 2005, condemning the use of torture as well as cruel, inhuman and degrading treatment upon anyone being held by, or under the permission of, any governmental authority; which was referred jointly to the Committees on Armed Services and International Relations.

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PROCEEDINGS AND DEBATES OF THE 109th CONGRESS, FIRSTSESSION

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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.

O Lord, You have made this day for Yourself and for us. It is Your day, and we share its meaning. Remind us that You use our minds, hands, and feet to do Your work in our world.

Help us to bring aid and comfort to those who have been battered by the forces of nature. May we see in their trials opportunities to serve You.

Give the Members of this body the wisdom to use this day for Your glory. May they use their talents to strengthen our Nation and world. Empower them to strive for integrity, faith, love, and peace.

Entwine our lives with Your purposes so that our land will be blessed by Your providence.

We pray in Your sovereign 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, leadership time is reserved.

EXECUTIVE SESSION

NOMINATION OF JOHN G. ROBERTS, JR., TO BE CHIEF JUSTICE OF THE UNITED STATES—Resumed

The PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session to resume consideration of Calendar No. 317, which the clerk will report.

The legislative clerk read the nomination of John G. Roberts, Jr., of Maryland to be Chief Justice of the United States.

The PRESIDENT pro tempore. Under the previous order, the time until 10:30 a.m. will be equally divided between the two leaders or their designees.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, in a few minutes, we will begin the final remarks regarding the nomination of Judge John Roberts to serve as Chief Justice of the United States. Beginning at 10:30 this morning, the time until the vote has been allocated for closing comments by the chairman and ranking member of the Judiciary Committee. The vote on the confirmation of Judge Roberts will begin at 11:30.

I remind all Senators to be at their desks at the outset of this historic vote. Senators should come to the Chamber around 11:20 for the 11:30 vote.

Following the confirmation vote on Judge Roberts, the Senate will take up the Defense appropriations bill. Senators should expect additional votes on the Defense bill, as well as votes on Friday.

The vote we cast today is one of the most consequential of our careers. With the confirmation of John Roberts, the Supreme Court will embark upon a new era in its history—the Roberts era. For many years to come, long after many of us will have left public service, the Roberts Court will be deliberating on some of the most difficult and fundamental questions of U.S. law. As all Supreme Courts that have come before, their decisions will affect the lives of all Americans.

When the President announced his nomination of Judge Roberts in July, we pledged to conduct a full, thorough, and fair review of Judge Roberts' credentials and qualifications. We also pledged we would conduct those deliberations in a timely and expeditious manner so the Supreme Court could begin its term on October 3 at full strength. We have delivered on both promises.

I thank Chairman ARLEN SPECTER for his leadership and handling of the hearings process, and I also want to thank my colleagues for moving forward so the Supreme Court can do its important work for the American people.

I expect a strong bipartisan vote in support for Judge Roberts later this morning. As has been said by Members on both sides of the aisle, Judge Roberts is an exceptional candidate who possesses the keen intelligence, the exemplary character, and sterling credentials to serve as Chief Justice of the highest Court in the land. I look forward to confirming him to lead the Supreme Court of the United States.

I yield the floor.

The PRESIDENT pro tempore. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, my friend and colleague, the Senator from New York, is here. He wants to speak briefly. I know the time is divided for the next hour. I ask unanimous consent that he follow my remarks.

The PRESIDENT pro tempore. The time is equally divided.

Mr. FRIST. Mr. President, for the information of my colleagues, Senator LOTT has been scheduled to speak. When he comes, we will be alternating back and forth.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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The PRESIDENT pro tempore. Does the Senator seek recognition now?

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I will probably speak 8 or 9 minutes. My colleague wanted to speak for about 4 or 5 minutes. That would not interfere with the previous agreement. I ask unanimous consent that he be recognized following me.

The PRESIDENT pro tempore. That would take an amendment to the previously agreed-to order.

Without objection, it is so ordered.

Mr. KENNEDY. I thank the Chair.

Mr. President, the Supreme Court of the United States is the ultimate arbiter of our Constitution and, as such, it is the final protector of individual rights and liberties in this great Nation. So when we vote to confirm a justice for a lifetime appointment to the Supreme Court, we have an awesome responsibility to get it right. And when we vote to confirm the Chief Justice of the United States, we have an even greater responsibility, because the stakes are even higher.

The Chief Justice sets the tone for the Court and, through leadership, influences Court decisions in ways both subtle and direct. Indeed, during the course of his confirmation hearings, Judge Roberts expressly acknowledged the important role that a Chief Justice can play in persuading his fellow justices to come along to his way of thinking about a particular case. During my discussion with him of the Supreme Court's landmark decision in Brown v. Board of Education, I mentioned that the decision was a unanimous one. Judge Roberts responded:

> Yes. That represented a lot of work by Chief Justice Earl Warren because my understanding of the history is that it initially was not. And he spent—it was re-argued. He spent a considerable amount of time talking to his colleagues and bringing around to the point where they ended up with unanimous court. . .

On another day, when I again mentioned Brown and the indispensable role played by Chief Justice Warren, Judge Roberts said:

> Well, Senator, my point with respect to Chief Justice Warren was that he appreciated the impact that the decision in Brown would have. And he appreciated that the impact would be far more beneficial and favorable and far more effectively implemented with the unanimous court, the court speaking with one voice, than a splintered court.
>
> The issue was significant enough that he spent the extra time in the reargument of the case to devote his energies to convincing the other justices—and, obviously, there's no arm-twisting or anything of that; it's the type of collegial discussion that judges and justices have to engage in—of the importance of what the court was doing and an appreciation of its impact on real people and real lives.

I have thought long and hard about the exchanges I had with Judge Roberts, and I have read and re-read the transcript and the record. And try as I might, I cannot find the evidence to conclude that John Roberts understands the real world impact of court decisions on civil rights and equal rights in this country. And I cannot find the evidence to conclude that a Chief Justice John Roberts would be the kind of inspirational leader who would use his powers of persuasion to bring all the Court along on America's continued march toward progress.

Therefore, I do not believe that John Roberts has met the burden of proof necessary to be confirmed by the Senate as Chief Justice of the United States. Sadly, there is ample evidence in John Roberts' record to indicate that he would turn the clock back on this country's great march of progress toward equal opportunity for all. The White House has refused to release documents and information from his years in the Reagan administration and in the first Bush administration that might indicate otherwise, but without those records we have no way of knowing.

Both in committee and on the floor, some have argued that those of us who oppose John Roberts' nomination are trying to force a nominee to adopt our ''partisan'' positions, to support our ''causes,'' to yield to our ''special interest'' agendas.

But progress toward a freer, fairer Nation where ''justice for all'' is a reality—not just a pledge in the Constitution—is not a personal ''cause'' or a ''special interest'' or a ''partisan'' philosophy or ideology or agenda.

For more than half a century, our Nation's progress toward a just society has been a shared goal of both Democrats and Republicans. Since Republican Senate Leader Everett Dirksen led his party in supporting the Civil Rights Act of 1964, equal rights for all has been a consensus cause, not a ''partisan cause.'' Since Congress adopted the Voting Rights Act of 1965 and began the process of spreading true democracy to all Americans, it has been a national goal, not a ''special interest'' goal. Fulfilling the Founders' ideals of equality and justice for all is not just a personal ideology, it is America's ideology. Surely, in the 21st century, anyone who leaves the slightest doubt as to whether he shares it fully, openly and enthusiastically should not be confirmed to any office, let alone the highest judicial office in the land.

Our doubts about John Roberts' commitment to continuing our national progress toward justice was, quite appropriately, a major issue in the committee hearings. The fundamental question was whether his record and his answers suggested that he would be an obstacle to that progress, by treating cases before the Supreme Court in a narrow legalistic way that resists and undermines the extraordinary gains of the past.

For all his brilliance and polish, he gave us insufficient evidence to demonstrate that the John Roberts of today is not the ideological activist he clearly was before. The strong evidence from his own hand and mind, the crucial 3-year gap in evidence because of the Administration's refusal to release his papers as Deputy Solicitor General, and his grudging and ambiguous answers at the hearing left too many fundamental doubts, and could put the entire Nation at risk for decades to come.

Some argue that John Roberts was just doing his job and carrying out the policies of the Reagan administration in the early 1980s. But his own writings refute that argument—these were clearly his own views, and were enthusiastically offered as his views. If he didn't agree with those policies as a lawyer in the Justice Department in 1981 and 1982, he would not have applied for the more political and more sensitive job in the White House Counsel's office when he left the Justice Department. He knowingly chose to be a voice for their policies, and often advocated even more extreme versions of those policies.

He certainly knew what was expected of him when he chose to become Deputy Solicitor General in 1989. That position was explicitly created to be the political monitor over all Department of Justice litigation. He was eager to advance the ideological views that his earlier memoranda show he personally supported. He obviously wasn't just ''following orders''—he was an eager recruit for those causes. That was the evidence he needed to overcome in the hearings, and his effort to do so is unconvincing.

I hope I am proven wrong about John Roberts. I have been proven wrong before on my confirmation votes. I regret my vote to confirm Justice Scalia even though he, too, like John Roberts, was a nice person and a very smart Harvard lawyer. I regret my vote against Justice Souter, although at the time, his record did not persuade me he was in tune with the Nation's goals and progress.

But as the example of Justice Scalia shows, and contrary to the assertions of my colleagues across the aisle, I have never hesitated to vote for a Republican President's nominee to the Supreme Court whose commitment to core national goals and values appeared clear at the time. In fact, I have voted for seven of them, more than the number of nominees of Democratic Presidents I have voted for.

Our Senate responsibility to provide advice and consent on the Supreme Court Justices and other nominations is one of our most important functions. The future and the quality of life in this Nation may literally depend on how we exercise it. If we are merely a rubberstamp for the President's nominees, if we put party over principle, then we have failed in this vital responsibility. Even more important, if we go along to get along with the White House, we will be undermining the trust the Founders placed in us, and we will diminish the great institution entrusted to our care. Every thoughtful and reasonable ''no'' vote is a vote for the balance of powers and for

the Constitution, so we must never hesitate to cast it when our independent consciences tell us to do so.

I yield the floor.

The PRESIDENT pro tempore. The Senator from New York is recognized.

Mr. SCHUMER. Mr. President, I thank the Senator from Massachusetts for his leadership on these issues through the decades.

Mr. President, today John Roberts will be confirmed as the 17th Chief Justice of the United States, so it is a historic day. Not everyone in this Senate will vote for him, and our opinions differ on many things: How much we were consulted, how many documents we received, how fair John Roberts will be, how ideological he will be.

In the end, I decided that while there was a very good chance that Judge Roberts would be a very conservative but mainstream Justice without an ideological agenda, he was not convincing enough. And the down side, even a minority downside that he would be a Justice in the mold of Scalia and Thomas, was too great to risk, so I will vote no.

But no matter how we vote, today we all share a fervent hope that Justice Roberts becomes a great jurist and serves our Nation well. In the end, I cannot vote for Judge Roberts, but I hope he proves me wrong in my vote and that he takes the goodwill of this body and the American people with him onto the bench; that he rules fairly; that he looks out for the little guy if the law is on the little guy's side; that he will be the lawyer's lawyer, without an ideological agenda; that he sees justice done in the many areas of the law that he will profoundly affect over the next several decades.

However, as the curtain falls on this vote, the curtain is about to rise on the nomination of a replacement for Justice Sandra Day O'Connor. If ever there was a time that cried out for consensus, the time is now. If the President nominates a consensus nominee, he will be embraced, the President will be embraced, and the nominee will be embraced with open arms by people on this side of the aisle. Not only we on this side of the aisle, but the American people hope and pray in these difficult times for a consensus nominee. The ball is in your court, Mr. President.

I yield the floor.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Mississippi is recognized.

Mr. LOTT. Madam President, I am delighted this morning to rise to speak on the nomination of Judge John Roberts to become Chief Justice of the U.S. Supreme Court. Before I proceed on my discussion of Judge Roberts, I want to take a moment to commend the President of the United States for his brilliant selection of this outstanding human being, lawyer, judge, and public servant. I had thought there would be pressures to move in some other direction, that some other person might be selected for a variety of reasons—good reasons. But the most important thing was for him to select the best man or woman for the job, regardless of anything else. That is what the President did.

When I had an opportunity to comment to White House representatives when they asked my recommendations, I said, frankly, I didn't have a particular person I recommend. I have faith in this President and I believe he will make the right choice. But second, I urged that he pick the best person, regardless of sex, religion, race, religious background, region of the country, or philosophy. And then I had one or two that I thought, well, maybe you do not want to suggest these people.

I was, frankly, delightfully surprised when the President selected Judge Roberts. I am very pleased with this selection.

I also want to thank Senator SPECTER of Pennsylvania for conducting these confirmation hearings in such a fair, dignified, and respectful manner. We can only hope that the nature of these hearings will carry over to the next Supreme Court nomination. Every Senator had ample opportunity to make statements and ask what were supposed to be questions that quite often became just another speech, but I thought that the overall tenor and tone of the committee hearings was very good.

Maybe this nomination and the conduct of these hearings in the Judiciary Committee and the vote today in the Senate will be overwhelming and will bring to a final close a dark and ugly chapter in the history of Federal judicial nominations and confirmations. What we have done to men, women, and minorities over the past 4 years, until May of this year, was one of the nastiest things I have ever witnessed. Good people's remarks were misinterpreted. I will not even describe how strongly I feel about some of the things that were said and done.

We found a way to change the atmosphere, to move some of these nominees, and now to vote on this nomination. Thank goodness. This is a good opportunity. Let's continue these future hearings and these nomination considerations in this vein.

We are set to vote later this morning on the nomination of Judge Roberts to be the 17th Chief Justice of the U.S. Supreme Court, the youngest nominee in probably over 150 years. The vote will place Judge Roberts at the head of the judiciary branch, a job that comes with an immense amount of responsibility and a position for which Judge Roberts is eminently qualified.

Before I met Judge Roberts, I knew him by his reputation. I had some mutual friends who had worked with him at the Supreme Court, who had served with him in previous administrations, who had known him in a variety of roles, and to a man or woman they gave glowing reports on his quality and his credentials.

By Supreme Court standards he is still a young man, just 50 years old, but he has compiled an outstanding résumé, graduating sum cum laude from Harvard, taking only 3 years. He graduated magna cum laude from Harvard Law School and served as managing editor of the Harvard Law Review, with clerkships for Judge Henry Friendly and then Associate Justice William Rehnquist.

When I met with him I said, You have an outstanding résumé and we will overlook the Harvard thing—which always gets a laugh. And I am only jesting—in half.

Judge Roberts embarked upon a distinguished career in public service and served as Associate White House Counsel in the Reagan administration and the Principal Deputy Solicitor General in the George H.W. Bush administration. In all, Judge Roberts argued 39 cases before the U.S. Supreme Court, winning more than half. That is a pretty sterling record of appearances, let alone the victories. The American Bar Association gave him its highest rating, a unanimous ''well-qualified,'' both for the Supreme Court and DC Circuit nominations.

After visiting with Judge Roberts and watching how he has conducted himself during his nomination process, I continue to be extremely impressed. He is brilliant, eminently qualified, and fair man who clearly has a passion for the law. If confirmed, I believe he will serve the United States with honor and distinction for a long time.

Before Hurricane Katrina hit my home area and shifted the focus of us all, as we try to do all we can in a responsible way to help the people who have been so devastated by this natural disaster, I consistently heard concerns from Mississippians about the direction of our judicial system. My constituents realized that judicial activism is a serious problem that threatens their rights and ignores the constitutional obligations of the judiciary. With recent decisions such as Kelo v. City of New London that allows local governments to take private property and give it to someone else for private development, and the Pledge of Allegiance cases out of the Ninth Circuit, it should be clear to everyone what the dangers of judicial activism are and how it causes serious concerns.

I have a friend who serves in the Federal Judiciary, a very close friend. Recently, we were together in my home and after breakfast on Sunday morning we were talking about things in general. He said: I am concerned about the attitude toward the Federal judiciary. We actually have to worry about security in our courthouses. Why is this?

And I said: Your Honor, my friend, look at your decisions. You Federal judicial members are out of control. And until you get back in the box and stay as judges, not as legislators, and quit rendering these ridiculous decisions, there will be no respect.

However, I have learned, also, in so many ways in recent years, that one of the sayings of the Jaycees when I was

a young man in a young businessman's organization was that this is a government of laws, not of men. It is just not so. You can have the best laws in the world, you can have the best system in the world, which we do, but if you have the wrong men and women in place, it does not work.

So we have a little changing of the judiciary that is called for. And these recent decisions I refer to just magnify why this is needed. Judicial activism is a threat to all Americans, regardless of political alliances. The use of judicial activism to advance conservative or liberal political goals is simply wrong.

Judge Roberts' own testimony illustrates his understanding of the constitutional role of the judiciary and shows his understanding of the issue. He said:

> Judges are like umpires. Umpires don't make the rules, they apply them. . . . They make sure everybody plays by the rules, but it is a limited role.

While Judge Roberts acknowledged this analysis might be an oversimplification, but it shows a welcome respect for the constitutional role of the Judiciary.

When he was asked what type of judge he would like to be known as, Judge Roberts responded ''a modest judge,'' meaning he has an ''appreciation that the role of the judge is limited, that a judge is to decide the cases before them, they are not to legislate, they are not to execute the laws.''

Judge Roberts vowed to decide each case in a fair-minded, independent, and unbiased fashion and has stated repeatedly that personal ideology has no place in the decision making process of a judge.

Simply put, this is a rock solid judicial philosophy. This is what separates judges from legislators. We as legislators are free to use our personal ideology and make decisions, and boy do we. We are elected and accountable to our constituents for those decisions if we go too far, in their opinion, one way or the other.

Judge Roberts addressed the role of personal ideology in the judiciary during his hearings by saying:

> [Judges] are not individuals promoting their own particular views, but they are supposed to be doing their best to interpret the law, to interpret the Constitution, according to the rule of law, not their own preferences, not their own personal beliefs.

During his hearings, Judge Roberts was asked to answer several questions on issues that potentially could come before him if confirmed to the Supreme Court. He handled those questions exactly as he should have. It is a well-established standard that nominees should not answer questions that might bias them on future cases. I commend Judge Roberts for his handling of that sometimes difficult situation with steadfastness, with intelligent responses, and even sometimes with a sense of humor.

This nomination has served as a fantastic example of how the Ginsburg standard should be applied. Judicial nominees should have a fair and respectful hearing. They should not be expected to prejudge issues or cases. Judges must remain impartial and should not be asked to commit to rule a certain way in order to win confirmation votes. Judge Roberts, like Justice Ginsburg and all the other sitting judges, rightly refused to prejudge cases or issues likely to come before the Supreme Court.

During this process, Judge Roberts' record was scrutinized more closely than any other person in the history of judicial nominees. Senators had access to unprecedented 76,000 pages of documents from his time spent in public service and 327 cases decided by him on the DC Circuit. In addition, he was questioned for nearly 20 hours by the Judiciary Committee before receiving bipartisan support and a vote of 13 to 5. Through all of this intense scrutiny Judge Roberts and his record remain consistent and impressive.

Being placed under the microscope like this is not for the fainthearted. I admire how he handled this entire process with grace and poise.

Nobody should be surprised that when faced with a Supreme Court vacancy President Bush nominated a judicial conservative for that position. He said he would, I expected him to, and so he did. I expect him to do it again. In fact, you are talking about a consensus nominee. There won't be a consensus if he nominates somebody like Justice Ginsburg.

But I voted for her. I knew she was going to be way out of the mainstream, extremely liberal, but President Clinton won the election. He selected her. She was qualified by education, by experience, by demeanor. I voted for her. I did not expect her then to go on the Supreme Court and vote the way I would vote. She was a liberal. She is today. And probably—I have every reason to believe—a wonderful lady and a very thoughtful judge. She just comes to wrong conclusions, in my opinion.

The President was elected twice to the Presidency, telling anyone who would listen he would fill a vacancy in the Supreme Court with a judicial conservative. So why are we surprised? Why would you expect anything else? That is the way it is going to be; and that is the way it should be. He has followed through on that promise with John Roberts. He will likely do so again in the next nomination. And the next nominee, whoever it might be, deserves to be treated with the same fairness, respect, and dignity given to Judge Roberts.

There is clear and convincing evidence here that Judge Roberts is the right choice to be Chief Justice of the U.S. Supreme Court. I look forward to voting in favor of his confirmation.

I yield the floor.

Mr. AKAKA. Mr. President, I rise today in reluctant opposition to the confirmation of John Roberts as Chief Justice of the United States. While Judge Roberts is a talented lawyer and Constitutional scholar, I do not believe that these qualities alone are sufficient for leading the highest court in the land.

I approached this nomination as I do any nomination: with an open mind. I take my role of advice and consent on nominations seriously. That is why I joined a group of my colleagues in the Senate to respectfully ask the President to make available documents from Roberts' time in the Solicitor General's office. These documents could have provided valuable insight into how Roberts views important Constitutional questions, and I am disappointed that the White House did not fulfill this request. The White House owes not only the Senate, but also the American people, access to this information.

And so I am left to wonder about Judge Roberts' positions on critical questions regarding our Constitution and our way of life. I continue to hope that Judge Roberts shares my understanding that the Constitution provides robust protections guaranteeing the equality of all Americans. I hope that Judge Roberts' view of the Constitution is not as narrow as I have been led to believe.

However, neither the White House nor Judge Roberts has convinced me. On the contrary, they have given me reasons for alarm. Because the White House failed to respond to requests for Roberts' more recent work at the Solicitor General's office, the memoranda Judge Roberts wrote as a young lawyer in government service are all I have to go on. These memos raise serious concerns for me about Judge Roberts' commitment to protecting fundamental rights. Judge Roberts expressed views on civil rights, the Voting Rights Act, and the right to privacy convey a view of the Constitution that I simply do not agree with.

I recognize that these memos were written a long time ago, which is why I reserved judgement until Judge Roberts had the opportunity to clarify his position on these issues at the hearings. I listened carefully for Judge Roberts to dispel concerns about these memoranda, hoping that Judge Roberts would clarify the values that would guide his deliberations as Chief Justice. While Judge Roberts would occasionally distance himself from his old memos, stating that he was simply an employee doing what his boss had asked of him, he never fully explained where he stands on these important issues now.

Consequently, I am left with the memos to piece together Judge Roberts' judicial philosophy. These memos concerned me not only for the ideas they conveyed, but also the language that Judge Roberts chose to express his ideas. To me, phrases such as ''illegal amigo,'' ''Indian giveaway,'' and ''supposed right to privacy'' convey an unacceptable lack of respect for the people whose rights and freedoms Judge

Roberts would be entrusted to protect. It disappointed me that, when asked whether he regretted his flippant tone, Judge Roberts not only deflected responsibility but also failed to articulate any semblance of regret for these hostile words.

For these reasons, I cannot vote for this nominee. This was not an easy decision for me. I have great respect for my many friends—both inside and outside this body—who have come to a different conclusion. I hope the President will use his next nomination to appoint a justice whom all Senators can agree upon, and if doubts arise the White House will choose to resolve rather than exacerbate them.

Mr. BOND. Mr. President, among the great responsibilities and privileges of being a Member of the U.S. Senate is assessing the qualifications and voting on the confirmation of members of the U.S. Supreme Court. Reflecting upon this vote, one gets a sense of the weight of the responsibility—we will be voting on a replacement for only the 17th Chief Justice in the history of our great country.

But this vote is not unique because of its infrequency but because of its place in our system of government. The Supreme Court is the final voice in the land on the meaning of the words of the Constitution as they apply to the extent of the rights guaranteed to individuals by the document. It is the final word on the demarcation of power between the legislative and executive branch of government and it is the voice on defining the power reserved for the Federal Government and the governments of the individual States.

As a member of the legislative branch of our national government who was in a former life a State Governor, I am acutely aware of the importance of these lines and the consequences when they are breached. As a Member of the Senate, I do not welcome decisions overturning legislative acts that I support but I frequently work with my colleagues to reject efforts to meddle in state affairs. As a Governor attempting to guide my State, I had to labor through the burdens placed in my way by an intrusive Federal Government.

The judicial branch of our government, most notably the Supreme Court, has been designated by the Constitution as the branch to maintain these divisions of power and law making.

So it is a great privilege and responsibility to have a role in confirming people who will occupy a place on the court. In this case, confirming the person that will lead that court.

After observing Judge Roberts during 3 days of hearing before the Committee on the Judiciary, I am convinced the power that comes with the vote of a Supreme Court Justice will be in wise and capable hands. First, throughout this strenuous session, Judge Roberts' intelligence, patience and temperament were on full display and were nothing short of extraordinary.

But it was that which he had to say that satisfies me and secures my vote for his confirmation.

He made a convincing case through his words and his demeanor that he will approach his responsibility with modesty and humility, which means approaching cases with an open mind and carefully studying the words of Congress or the precedents of the Court on constitutional questions. As Judge Roberts said and I agree, ''a certain humility should characterize the judicial role. Judges . . . are servants of the law, not the other way around.''

Also, as Judge Roberts repeatedly reminded his inquisitors, he is not a politician. In that statement, I am comforted. I commend him on his willingness to remind my colleagues that he was not before Congress to compromise or give hints on how he might vote on a hypothetical case in exchange for confirmation votes. Rather, he confirmed repeatedly that the constitution and the rule of law will be his guide.

Judge Roberts made the case that he recognizes that the authority on the division of power between the branches of government and the authority on the division of power in our federalist system of government are contained in the Constitution.

It is a positive thing that we are going to confirm a decent person for the Court, but that should not be our guiding principle. Our vote should not rest on whether a future judge will approach cases as a father or a son, on the side of the weak or the strong or with the intent to expand rights or protections. That subjects judicial decision making to subjective standards, compromises impartiality and removes the blinders from justice. Some have argued that this is to dodge a question. Rather, it is an indication that one recognizes that the obligation of the judge is to follow the Constitution rather than his own interests.

At one point during the proceedings, the Judge was prodded to comment on a case in which he participated to decide the extent of benefits available under a health plan. To limit or expand the benefits provided under a statute is the job of a legislature, not a judge. Judge Roberts agrees with this important principal. As he stated. ''As far as a Judge is concerned, they have to decide questions according to the rule of law, not their own social preferences, not their policy views, not their personal preferences, but according to the rule of law.''

If the support of a majority of a State or national legislature can be won, a statute can be changed and this concern addressed. I suspect that many of my colleagues, particularly those who will vote against this nomination, have come to rely on the judiciary to advance changes that have no support in legislatures. Hence, their frustration with Judge Roberts. He has clearly defined views of the role of the judiciary and the role of the legislature and they do not appear to be blurred. He has not shown a willingness to approach case guided by a point of view or a subjective standard—that is what is to motivate legislators as they debate on the campaign trail and the floors of congress and statehouses across the country.

But as Judge Roberts again put it so well, ''If the people who framed our Constitution were jealous of their freedom and liberty, they would not have sat around and said, 'Let's take all the hard issues and give them over to the judges.' That would have been the farthest thing from their mind.''

As did the Founders, I do not believe State and national legislative bodies are incapable of settling tough and contious issues. I do not believe it is benevolent or admirable for judges to remove questions from the public realm because they are divisive. Roberts has shown the modesty and respect for the role of the court and an legislature to refrain from that path.

Judge Roberts has also made it clear that he finds no place for reflection on the public attitudes and legal documents of foreign lands in the consideration of constitutional questions. They do not offer any guidance as to the words of our constitution.

During his testimony, Judge Roberts displayed a respect for Constitution and the rule of law as the principles that should guide him when ruling on a case. His view of the role of the judiciary is very consistent with that of my own.

Finally, I believe President Bush has executed his duties in a responsible manner that will serve our Nation well. He interviewed many distinguished and qualified attorneys an judges in the country to serve on our Nation's highest court. After responsible consultation with members of the Senate and careful and thoughtful deliberation, President Bush returned to the Senate the name of John Roberts. As we have learned, his qualifications to lead the Supreme Court and Federal judiciary are as unquestioned as they are impressive.

President Bush was reelected with over 62 million votes, the highest received by a presidential candidate. He is the first candidate in 16 years to win a majority of the popular vote, something not achieved by his predecessor, who incidentally won easy confirmation of both of his appointments to the high court.

President Bush resoundingly won the right to nominate someone who he views as fit to serve on the Supreme Court and he won the right to have that nominee considered fairly and impartially. The President also asked for the thoughts and advice of Members of this body as to the pending nomination. When it came time to exercise his responsibility as President, he did so by nominating someone with an impeccable record and extraordinary qualifications. In the execution of his duties, President Bush exceeded any standard to which he should be held.

Nonetheless, I suspect that this nomination and the subsequent nomination will not be treated in the manner that President Clinton's nominees were treated, when they received 96 votes. But it should as should the next nominee.

Judge Roberts is an outstanding nomination. He will get my support and he deserves the overwhelming support of this body.

Mr. ENSIGN. Mr. President, I rise to speak in support of John Roberts' nomination for Chief Justice of the Supreme Court. The debate that the Senate will have this week is truly historic. In our Nation's history there have only been 16 previous Chief Justices. The opportunity to vote on a nomination for Chief Justice is a once-in-a-lifetime opportunity and should be undertaken with recognition of its importance. The importance of this vote simply cannot be overstated.

I believe that our Nation is best served when we confirm individuals who appreciate that the role of a judge is not to make laws but to uphold the Constitution. We need judges who understand that their oath requires them to follow the Constitution and to apply the law in a modest fashion. Judges do not serve in the legislative branch. They should not make the law. As Senators, that is our job.

Under our Constitution, judges are appointed to interpret the law. They should apply the law without prejudice. Judges must be open to the legal arguments presented by each of the parties before them. They must fully and fairly analyze the facts and faithfully apply the law.

I have carefully considered John Roberts' record and his qualifications. I believe that his record reflects a proper understanding of the role of judges. I met with him and discussed face-to-face his views on the role of Supreme Court Justices. Judge Roberts possesses the highest intellect and integrity. He has also demonstrated that he is fair-minded. He possesses the necessary experience, as an attorney for the government, in private practice and as a judge, to serve on the high court. By any objective measure, John Roberts is qualified to sit on the bench, and he deserves to be confirmed.

Judge Roberts, in his testimony before the Judiciary Committee and in his writings throughout his career, has presented himself as a man with a clear view of the role of a Supreme Court Justice: to interpret the law and to uphold the Constitution. His answers to specific questions have been necessarily and appropriately limited so we must trust, as we have with past nominees to the Court, that Judge Roberts is presenting himself and his views honestly. I believe he has, and for the sake of our country, I hope so.

Today, throughout the judicial branch, judicial activism is impeding and restricting freedoms the American people should expect to enjoy as envisioned by our Nation's founders. Recent and significant rulings have established standards created not by elected Members of Congress but by activist judges. These rulings have infringed on Americans' rights to exercise their religious beliefs; to recite the Pledge of Allegiance; and to own property without fear that the Government might seize that property for economic gain.

Now more than ever we need justices who will stand against this type of judicial activism, adhere to the proper role of upholding the Constitution, and leave the task of creating laws to the Congress. John Roberts is representing himself as someone who believes in a return to what our founders intended and we hope his portrayal of his views is honest and true.

Historically, the Senate has confirmed a nominee when the nominee is found to be well qualified. John Roberts certainly meets this criterion. Historically, the Senate has based confirmation on a nominee's record, writings, and prior decisions. There is ample documentation on which my colleagues can make a decision with respect to John Roberts' nomination. And the documentation supports confirmation.

John Roberts deserves to be confirmed, and America deserves a Chief Justice like John Roberts.

I yield the floor.

Mr. FEINGOLD. Mr. President, I will vote in favor of the nomination of Judge John Roberts to be the Chief Justice of the United States. This has not been an easy decision, but I believe it is the correct one. Judge Roberts' impeccable legal credentials, his reputation and record as a fair-minded person, and his commitment to modesty and respect for precedent have persuaded me that he will not bring an ideological agenda to the position of Chief Justice of the United States and that he should be confirmed.

I have often noted that the scrutiny that I will apply to a President's nominee to the Supreme Court is the highest of any nomination and that the scrutiny to be applied to the position of Chief Justice must be the very highest. I have voted for executive branch appointments, and even for court of appeals nominees, whom I would not necessarily vote to put on the Supreme Court.

Furthermore, because the Supreme Court, alone among our courts, has the power to revisit and reverse its precedents, I believe that anyone who sits on that Court must not have a pre-set agenda to reverse precedents with which he or she disagrees and must recognize and appreciate the awesome power and responsibility of the Court to do justice when other branches of Government infringe on or ignore the freedoms and rights of all citizens.

Judge Roberts came to his hearing with a record that few can top. His long record of excellence as a lawyer practicing before the Supreme Court, and his reputation as a lawyer's lawyer who has no ideological agenda, carry substantial weight. I wanted to see, however, how that record and reputation would stand up against a searching inquiry into his past statements and current views. As a member of the Judiciary Committee, I was proud to play a role in that inquiry. I believe the hearing was fair and thorough and I congratulate the chairman and ranking member, and all of the members of the committee, for the seriousness with which they undertook this task.

One important question I had was about Judge Roberts' views on the role of precedent and stare decisis in our legal system. A lot of the concern about this nomination stems from the fact that many important precedents seem to be hanging by a thread. In both our private meeting and in his hearing, Judge Roberts demonstrated a great respect for precedent and for the importance of stability and settled expectations. His themes of modesty and humility showed appropriate respect for the work of the Justices who have come before him. He convinced me that he will take these issues very seriously, with respect to both the constitutional right to privacy and many other issues of settled law.

As I am sure every Member of the Senate noticed and expected, Judge Roberts did not expressly say how he would rule if asked to overturn Roe v. Wade. But if Judge Roberts abides by what he said about how he would approach the question of stare decisis, I think he should vote to uphold Roe. He certainly left some wiggle room, and he said he would approach the possibility of overturning a case differently if the underlying precedents themselves came into question. But it will be difficult to overrule Roe or other important precedents while remaining true to his testimony about stability and settled law, including his statement that he agrees with the outcome in Griswold v. Connecticut. I know the American people will be watching him very closely on that question, and I personally will consider it a reversal of huge proportions, and a grave disappointment, if he ultimately does attempt to go down that road.

I was also impressed that Judge Roberts does not seem inclined to try to rein in Congress's power under the commerce clause. He repeatedly called attention to the Court's recent decision in Gonzales v. Raich as indicating that the Court is not headed inexorably in the direction it turned in the Lopez and Morrison cases limiting Congress's power. His approving references to Raich suggests to me that he will take a more moderate stance on these issues than his mentor, Chief Justice Rehnquist. His attitude seems to be if Congress does its job right, he will not stand in the way as a judge. That is, of course, cold comfort if the Court creates new hoops for Congress to jump through and applies them retroactively. I hope that Judge Roberts will recognize that Congress can pay attention to what the Court says is

needed to justify legislation only if the Court gives clear advance notice of those requirements.

Judge Roberts also seemed to reject a return to the Lochner era, when a majority of the Court invoked the due process and contracts clauses of the Constitution to strike down child labor and other laws it disagreed with, and the courts openly acted as a super-legislature, rejecting congressional enactments based on their own political and economic judgments. Judge Roberts disparaged the Lochner decision, saying, ''[y]ou can read that opinion today and it's quite clear that they're not interpreting the law, they're making the law.'' That is a marked contrast to many in the so-called ''Constitution in Exile'' movement, including recently confirmed DC Circuit Judge Janice Rogers Brown.

Judge Roberts' determination to be a humble and modest judge should lead him to reject efforts to undermine Congress's power to address social and economic problems through national legislation. I view that as a significant commitment he has made to the Congress and to the country.

Another important issue involves not so much respect for settled precedent, but rather questions that will arise in the future with respect to the application of the Bill of Rights in a time of war. The Supreme Court has already dealt with a series of cases arising from the Bush administration's conduct of the fight against terrorism, and will undoubtedly face many more during the next Chief Justice's term. Indeed, how the new Justices address these issues may well define them and the Court in history.

For me, Judge Roberts' discussion of the Foreign Intelligence Surveillance Court, which has been such an issue in the Patriot Act debate, was a defining moment in the hearing. His answers showed a gut-level understanding of the potential dangers of a court that operates entirely in secret, with no adversary process. His instincts as a lawyer, one who trusts our judicial system and its protections to yield the correct result under the rule of law, seemed to take over, and he seemed genuinely disturbed by the idea of a court without the usual protections of an open, adversary process. Here is what he said about the FISA Court to Senator DEWINE:

> I'll be very candid. When I first learned about the FISA Court, I was surprised. It's not what we usually think of when we think of a court. We think of a place where we can go, we can watch the lawyers argue and it's subject to the glare of publicity and the judges explain their decision to the public and they can examine them. That's what we think of as a court.
>
> This is a very different and unusual institution. That was my first reaction. I appreciate the reasons that it operates the way it does, but it does seem to me that the departures from the normal judicial model that are involved there put a premium on the individuals involved.

Judge Roberts' comments, and that he went out of his way to express surprise at the fact that this secret court even exists, suggests to me that he would address issues related to FISA, such as government secrecy and challenges to civil liberties, with an appropriately skeptical mindset.

I was troubled when Judge Roberts refused to give a fuller answer about his view of the Supreme Court's decision in the Hamdi case, and I have concerns about his decision as an appeals court judge in the Hamdan case regarding military commissions. But Judge Roberts did tell me that he believes: ''The Bill of Rights doesn't change during times of war. The Bill of Rights doesn't change in times of crisis.'' I was pleased to hear him recognize this fundamental principle.

I do not want to minimize the concerns that have been expressed by those who oppose the nomination. I share some of them. Many of my misgivings about this nomination stem from Judge Roberts' refusal to answer many of our reasonable questions. Not only that, he refused to acknowledge that many of the positions he took as a member of the Reagan administration team were misguided or in some cases even flat-out wrong.

I do not understand why the one person who cannot express an opinion on virtually anything the Supreme Court has done is the person whom the American public most needs to hear from. No one on the committee asked him for a commitment on a given case or set of issues. We certainly recognize that it is possible his views might change once he is on the Court and hears the arguments and discusses the issues with his colleagues. All of those caveats would have been perfectly appropriate. But why shouldn't the committee and the public have some idea of where he stands, or at least what his instincts are, on recent controversial decisions?

Although in some areas he was more forthcoming than others, Judge Roberts did not answer questions that he could and should have—unfortunately with the full support of committee members who want to smooth his confirmation—and I think that is disrespectful of the Senate's constitutional role. In addition, the administration's refusal to respond to a reasonable, limited request for documents from the time Judge Roberts served in the Solicitor General's office did a real disservice to the country and to the nominee. My voting in favor of Judge Roberts does not endorse this refusal. In fact, if not for Judge Roberts' singular qualifications, I may have felt compelled to oppose his nomination on these grounds alone. Future nominees who refuse to answer reasonable questions or whose documents the administration—any administration—refuses to provide should not count on my approval.

Also troubling was Judge Roberts' approach to the memos he wrote as a young Reagan administration lawyer. His writings from his early service in government were those of a very smart man who was at times a little too sure of himself and too dismissive of other viewpoints. I wanted to see if the Judge Roberts of 2005 had grown from the John Roberts of 1985, whose strong views often suggested a rigid ideological agenda. I wanted to see the possibility of a seasoned, wise, and just John Roberts on the Supreme Court, not just a more polished, shrewder version of his younger self.

Unfortunately, he refused to disavow any of those memos, many of which laid out disturbing opinions on a variety of issues, from voting rights, to habeas corpus, to affirmative action. He refused to acknowledge that some of his tone and word choice in that era demonstrated a lack of sensitivity to minorities and women, and to the challenges they face. Instead, he took refuge in the argument that he was simply doing his job, so we are not now supposed to infer anything about his beliefs or motivations based on the memos he wrote in the 1980s.

I found these arguments unpersuasive, particularly since several of these memos indicate that those were, in fact, his own personal views. And I do not understand why he felt he had to defend these 20-year-old memos. Maybe it was pride. Maybe it was a political strategy dictated by a White House that so rarely admits error. But take voting rights—it should have been easy for Judge Roberts to say that in retrospect he was wrong about the dangers of the effects test, and that the 1982 amendments to the Voting Rights Act that he opposed have been good for the country. Instead, he said he wasn't an expert on the Voting Rights Act and insisted on the correctness of his position. That troubles me.

The John Roberts of 2005 did not have to embrace the John Roberts of 1985, but in some cases he did, all too readily. On the other hand, I am not sure that the John Roberts of 1985 would have told Senator FEINSTEIN with respect to affirmative action that: ''A measured effort that can withstand strict scrutiny is . . . a very positive approach.'' His answers to questions on affirmative action, seemed to me, on balance, to be an encouraging sign that he will not undo the Court's current approach.

Finally, I was unhappy with Judge Roberts' failure to recuse himself in the Hamdan v. Rumsfeld case, once he realized he was being seriously considered for a Supreme Court nomination. It is also hard to believe, as Judge Roberts testified, that he does not remember precisely when the possibility of an ethics violation first came to his attention. Judge Roberts sat on a court of appeals panel that heard the appeal of a district court ruling that, if upheld, would have been a huge setback for the administration's position on military commissions and the detainees at Guantanamo Bay. And he heard oral argument just 6 days after interviewing for a Supreme Court appointment with the Attorney General of the

United States, who also was a major participant in the underlying legal judgment of the administration that was challenged in the case. I am troubled that Judge Roberts apparently didn't recognize at the time that there was an ethical issue.

I give great weight to ethical considerations in judicial nominations. For example, when Judge Charles Pickering solicited letters of recommendation for his court of appeals nomination from lawyers practicing before him in the district court, I found that very significant, especially in combination with his actions in a cross burning case where improper ex parte contacts were alleged. But while the issue raised about Judge Roberts is serious, I do not see such a pattern with Judge Roberts, who has a long record and reputation for ethical behavior. Nor is there evidence of the egregious, almost aggressive unethical behavior that was present in the nomination of Judge Pickering.

I hope that Judge Roberts now understands the concerns that I and a number of respected legal ethicists have about his participation in the Hamdan case. It is not too late for him to recuse himself and allow a new panel to hear the case.

At the end of the day, I had to ask myself: What kind of Justice does this man aspire to be? An ideologue? A lawyer's lawyer? A great Supreme Court Justice like Justice Jackson, who moved comfortably from the top legal positions in the Department of Justice to a judicial position in which he was more than willing to challenge executive power? A Chief Justice who will go down in history as the leader of a sharp ideological turn to the right, or a consensus builder who is committed to the Court and its role as guarantor of basic freedoms?

I have talked to a number of people who know John Roberts or to people who know people who know John Roberts. Those I have heard from directly or indirectly have seen him develop since 1985 into one of the foremost Supreme Court advocates in the Nation, whose skills and judgment are respected by lawyers from across the ideological spectrum. They don't see him as a champion of one cause, as a narrow ideologue who wants to impose his views on the country. They see him as openminded, respectful, thoughtful, devoted to the law, and truly one of the great legal minds of his time. That carries a great deal of weight with me. And it helps to overcome my frustration with Judge Roberts for not distancing himself from what he wrote in his Reagan-era memos and with the White House for refusing to release relevant documents to the committee.

History has shown that control of the White House, and with it the power to shape the courts, never stays for too long with one party. When my party retakes the White House, there may very well be a Democratic John Roberts nominated to the Court, a man or woman with outstanding qualifications, highly respected by virtually everyone in the legal community, and perhaps with a paper trail of political experience or service on the progressive side of the ideological spectrum. When that day comes, and it will, that will be the test for the Senate. And, in the end, it is one of the central reasons I will vote to confirm Judge John Roberts to be perhaps the last Chief Justice of the United States in my lifetime. This is not a matter of deference to the President's choice. It is instead a recognition that the Supreme Court should be open to the very brightest of legal minds on either side of the political spectrum.

The position of Chief Justice demands the very highest scrutiny from the Senate, and the qualifications and abilities of the nominee for this position must shine through. Judge Roberts has the legal skills, the intellect, and the character to be a good Chief Justice, and I hope he fulfills that promise. I wish him well. May his service be a credit not only to the rule of law, but also to the principles of equality and freedom and justice that make this country so great.

Mr. CORZINE. Mr. President, I believe that the U.S. Constitution is about protecting the rights of Americans, not about restricting those rights. And that is why I will vote against Judge John Roberts' nomination to be Chief Justice of the United States.

Judge Roberts and I appear to hold different views of the role that the Federal Government should play in our country. I believe that Government is here to preserve rights, to protect and support our citizens, and to offer opportunity to those less fortunate. Based on the limited record before us, I am not convinced that John Roberts shares these views.

Though he is clearly intelligent, articulate, and accomplished, I am deeply concerned that Judge Roberts' narrow and cramped view of the Constitution will lead inevitably to the restriction of our most scared rights and protections. I fear that Judge Roberts will interpret the Constitution so narrowly that he will reach results that are inconsistent with decades of well-established Supreme Court precedent.

From civil liberties to the ability of courts to protect minorities, from voting rights to school desegregation, from privacy to environmental protections, Judge Roberts has consistently adopted positions intended to limit the role of Government in a way that would harm all Americans.

I simply cannot vote to confirm a nominee who may vote to roll back decades of progress and protections for our most fundamental rights. Our most basic rights hang in the balance and I am not prepared to gamble with these rights.

Before the hearings on Judge Roberts began, I stated that we needed to learn his positions on all of the important issues that face Americans today, including the right to privacy, a woman's right to choose, civil rights, the rights of consumers, federalism, the scope of executive power, and the Government's ability to help those who need it most. I asserted that it was essential to learn Judge Roberts' position on first amendment protections and the authority of Congress to enact laws protecting the environment.

I also requested that the White House and Judge Roberts release documents relating to 16 cases in which he was involved from 1989 to 1993 as the Principal Deputy Solicitor General in the Justice Department. I wanted to review these documents to learn all we needed to know about a man selected for a lifetime appointment to the highest Court in the Nation.

I sought this information and asked for these documents because I strongly believe that Senators have both a right and a duty to evaluate thoroughly Supreme Court nominees. We have a right to request that the nominee answer relevant questions about legal philosophy and we have a corresponding duty to look carefully into all aspects of the nominee's record, including his or her prior statements, memoranda, and judicial opinions. When faced with a nominee who has an extremely sparse record, as Judge Roberts does, the level of scrutiny required in evaluating answers and reviewing documents must necessarily be higher.

Unfortunately, during 3 days of testimony before the Senate Judiciary Committee, Judge Roberts raised more questions than he answered. And we have never been given the opportunity to review the documents requested from the Solicitor General's Office. This lack of information, when coupled with Judge Roberts' early writings in which he advanced an exceedingly restrictive view of the civil rights laws as a lawyer in the administrations of Presidents Ronald Reagan and George H.W. Bush, raises serious concerns.

During his testimony, Judge Roberts failed to answer the most basic questions about his constitutional and legal philosophy—in total, he refused to answer almost 100 questions during the hearings. Judge Roberts also refused to distance himself from the vast majority of his prior, controversial writings. In failing to state his position on many critical issues, Judge Roberts left us with little to go on beyond his prior writings and limited judicial record.

I have been struck, in listening to the statements of many of my colleagues who have struggled with how to vote on this nomination, by the simple fact that we are all guessing—guessing if Judge Roberts will uphold the right to privacy, guessing if he will restrict the right of a woman to choose, guessing if he will uphold Federal laws regulating the environment, guessing if he will greatly expand Executive power, and guessing if he will support the gains we have made in the area of civil rights during the past 40

years. I cannot in good conscience cast a vote for the position of Chief Justice of the Supreme Court based on conjecture.

My concerns about Judge Roberts' legal philosophy run deepest in the areas of privacy, civil rights, and federalism.

One of our most important liberties is the right of individuals to privacy, which includes a woman's right to choose. During his hearings, Judge Roberts acknowledged that the due process clause of the Constitution encompasses the right to privacy. He also stated that he believed that the right to privacy encompasses the right of married couples to access contraception as established by the Court in *Griswold* v. *Connecticut*, 381 U.S. 479 (1965). However, beyond these broad, generalized statements supporting the constitutional underpinnings of the right to privacy and the holding in Griswold, Judge Roberts failed to explain his views on the right to privacy.

When pressed with questions on the landmark 1973 decision, *Roe* v. *Wade*, 410 U.S. 113, which extended the right to privacy recognized in Griswold to encompass a woman's right to choose, Judge Roberts either refused to answer the questions or responded with generalizations about precedent. Judge Roberts made it clear that his analysis on this issue starts with the holding in the 1992 Supreme Court case, *Planned Parenthood of Connecticut* v. *Casey*, 505 U.S. 833, which held that the right to choose may be restricted so long as State statutes do not have the purpose or effect of imposing an ''undue burden'' on a woman's right. In using this as his starting point, Judge Roberts leaves open the strong possibility that he may vote, perhaps as early as the upcoming Supreme Court term, to further restrict a woman's right to choose.

I cannot overlook the similarity between Judge Roberts' responses to questions about a woman's right to choose and the answers given by Justice Clarence Thomas during his confirmation hearings. Like Judge Roberts, Justice Thomas acknowledged a right to privacy in the Constitution. Justice Thomas also expressed support for the decision in Griswold. However, once he was confirmed to the Supreme Court, Justice Thomas argued vehemently against the existence of a general right to privacy and even called for the reversal of Roe v. Wade, describing the decision as ''grievously wrong.''

We simply cannot allow this to happen again. And we should not have to. We should not be in a position today where we have to guess if Judge Roberts will attempt to overrule Roe v. Wade or to further restrict the constitutional right of all women to choose.

In addition to my concerns about the right to privacy, I have serious concerns about Judge Roberts' views on civil rights. His record is extremely limited, but what little evidence we have reveals Judge Roberts' repeated attempts to roll back legal protections afforded to minorities and to those less fortunate.

In the area of affirmative action, Roberts urged the Reagan and the first Bush administrations to oppose affirmative action programs. Roberts sought to overturn established precedent supporting affirmative action programs and, in 1981, he fought to abolish race- and gender-conscious remedies for discrimination. This position was contrary to the Supreme Court's ruling in *United Steelworkers of America* v. *Weber*, 443 U.S. 193 (1979), which upheld affirmative action in employment. During his confirmation hearings, Judge Roberts refused to state his present position on this issue.

Judge Roberts also has a detailed record of opposing a broad interpretation of the Voting Rights Act, which is considered one of the most powerful and effective civil rights laws ever enacted. While working in the Justice Department during the Reagan administration, Judge Roberts urged the administration to oppose a bill that allowed discrimination under section 2 of the act to be proven through a showing of the discriminatory effects, and not just the discriminatory intent, of State voting restrictions. Congress enacted the bill over the administration's objections. Judge Roberts' approach, had it been adopted, would have made it tremendously difficult to overturn discriminatory voting laws. Again, during his confirmation hearings, Judge Roberts refused to state his present position on this issue.

Judge Roberts' record in the area of access to education is also troubling. In prior writings, Judge Roberts expressed opposition to the Supreme Court decision in *Plyler* v. *Doe*, 457 U.S. 202 (1982), wherein the Court ruled that the Constitution mandates that all children, including the children of undocumented immigrants, have the same access to education. Again, during his confirmation hearings, Judge Roberts refused to state his present position on this issue.

Additionally, memoranda written by Judge Roberts during his tenure at the Department of Justice raise concerns about his eagerness to deny the Supreme Court the power to decide questions of constitutional interpretation and subsequent remedies. In one writing, Judge Roberts argued that Congress had the power to strip courts of the power to desegregate schools through busing in the wake of *Brown* v. *Board of Education*, 347 U.S. 483 (1954). During his hearings, Judge Roberts neither stated his present view on this issue nor distanced himself from his prior writings.

Had Judge Roberts' views prevailed on these civil rights issues or on other similar issues during his tenure in the Reagan and George H.W. Bush administrations, we would today live in a far different world. It would be a world with fewer protections for minorities, women, and people with disabilities.

I am also concerned about Judge Roberts' views on the power of the Federal Government to pass legislation under the commerce clause of the Constitution. Although Judge Roberts' record is sparse, his dissent from a full court opinion denying a rehearing en banc in *Rancho Viejo, LLC* v. *Norton*, 334 F.3d 1158 (2003), causes concern. Judge Roberts was one of only two judges on the entire U.S. Court of Appeals for the DC Circuit to challenge the decision of the panel to uphold the constitutionality of the Endangered Species Act. Although Judge Roberts allowed in a footnote that there could be alternative grounds on which the full DC Circuit might uphold the constitutionality of the Act, his opinion demonstrates a narrow view of Congress's power to legislate under the commerce clause.

I am concerned that, based upon this critical view of Federal power, Judge Roberts may vote to limit Congress's authority to enact laws that help all American citizens. In the wake of Hurricanes Katrina and Rita, the role of the Federal Government in protecting all Americans, and particularly those less fortunate, has never been clearer. Congress must have the power to assist those in need, and to help citizens during times of natural and manmade disasters.

I am mindful of Judge Roberts' frequent statements that he would approach the law with modesty and restraint. However, we have never learned the reference point for this modesty and restraint. The starting point in this inquiry is as important as the ending point, for either can dictate the result. It is difficult to tell from Judge Roberts' testimony and writings whether, in exercising restraint, Judge Roberts would be deferring to the original intent of the Founders, Supreme Court precedent, the contemporary understanding of the Constitution, or something else entirely. Without this information, we are unable to meaningfully understand Judge Roberts' judicial philosophy.

If he begins at the point where Justices Scalia and Thomas do, Judge Roberts would view judicial restraint and modesty as adherence to a static, narrow, antiquated, and inaccurate originalist view of the Constitution that fails to acknowledge the realities of modern America. This form of ''modesty'' and ''restraint'', followed by Justices Scalia and Thomas, quite openly seeks to overrule the accomplishments of much of our Supreme Court jurisprudence during the past 200 years. Justices Scalia and Thomas believe that they exercise judicial restraint when they attempt to overturn Supreme Court precedent such as Roe v. Wade on the ground that it is inconsistent with their own originalist understanding of the Constitution. Although they may call this modesty and restraint, this view of the Constitution is

neither modest nor restrained; rather, it is a form of judicial activism as aggressive as any the Court has ever seen.

I have carefully weighed my concerns in light of my constitutional duty as a U.S. Senator. And I have concluded that, fundamentally, I cannot vote yes without being confident that Judge Roberts will not vote to roll back the protections and rights our Nation fought so hard to attain.

I am deeply mindful that we must never become so cynical or political that we fail to do what is best for the citizens of our Nation. And that means that we must place the value of an independent judiciary above the partisan politics of the day. That also means that we must not be afraid to stand up to the President and vote against a nominee who puts us in a position of guessing about his constitutional and legal philosophy.

We must never forget that our Supreme Court depends, first and foremost, on the Justices who hear arguments and issue rulings each and every day. As all Americans know, the Supreme Court is the highest Court in the United States. This is the Court that issues final rulings on many of the most important issues of our time, ones that touch the lives of all Americans. Therefore, it is essential that we know the views of each and every person whom we approve for a lifetime appointment to the Supreme Court.

There is no question that Judge John Roberts will get an up-or-down vote in the full Senate. However, that does not mean that he will get my vote. I will only vote to confirm Justices who will uphold established precedent and understand that the Constitution is about protecting rights, not about restricting them.

The stakes are simply too high to guess about the future of our fundamental rights and protections.

Mr. SHELBY. Mr. President, I rise today to support the nomination of Judge John Roberts to be Chief Justice of the U.S. Supreme Court.

Judge Roberts is a man of integrity whose reputation is irrefutable. He has been widely praised for his affable and humble personality as well as his integrity and intellect. Judge Roberts is already greatly respected by his colleagues and current Supreme Court Justices who know him as a leading advocate before that Court.

I believe that Judge Roberts is eminently qualified for this position. He earned both his bachelor's degree and his law degree from Harvard University. In fact, after earning his bachelor's degree summa cum laude, he managed to earn his law degree magna cum laude while serving as the editor of the Harvard Law Review. Following graduation, Judge Roberts earned a clerkship on the Supreme Court for the late Chief Justice William Rehnquist.

Since that time, Judge Roberts has had a long and distinguished career of service to this country, including serving as an attorney in the Office of the Solicitor General. Most recently, he served as a judge on the DC Circuit Court of Appeals, widely considered the second most powerful court in the Nation. During his service on the court, he has been consistent and fair.

Judge Roberts has also been a private practice attorney representing the full range of clients before the Supreme Court. He has argued before the Supreme Court 39 times, an impressive record even if you do not consider the fact that his client prevailed in 25 of those cases. In fact, Judge Roberts is widely considered by his colleagues to be one of the most accomplished attorneys to argue before the Supreme Court.

For some time I have been concerned that our judiciary was being overwhelmed by activist judges who attempt to legislate from the bench. They appear to make decisions based upon political philosophy and twist the words of our Forefathers and of Congress to serve their ideological goals.

We do not need judges who will make their own laws and interpret the Constitution based on one political philosophy or another. Rather, we must insist on judges who maintain a fair and judicious tone—judges who rule without the influence of ideology or personal opinion.

After 20 hours of testimony before the Senate Judiciary Committee, I believe the Nation learned a great deal about how Judge Roberts views the judicial role and what kind of service he will provide the Nation as Chief Justice. Judge Roberts is a skilled lawyer who understands and respects the Constitution. I believe he understands that the role of the judiciary is to interpret the law—not make law. It is clear from his testimony that his goal will be to fairly and effectively interpret the Constitution and the law without prejudice and with the utmost respect for the rule of law.

I commend President Bush for his continued efforts to put judges in place who respect the rule of law. I believe that Judge Roberts is a shining example of this type of jurist, and there is no doubt in my mind that he should be confirmed as our country's 17th Chief Justice, and I am proud to support his nomination.

Ms. STABENOW. Mr. President, this is a critical time in our Nation's history. For the first time in more than a decade, we have not just one but two vacancies on the United States Supreme Court. Sandra Day O'Conner, the first woman justice and often the critical deciding vote, is retiring, and Chief Justice Rehnquist, who served on the Court for more than 33 years, passed away after a courageous battle with cancer.

The two nominees who will receive these lifetime appointments will dramatically impact the direction of the Court for decades to come and will shape decisions that will affect the rights and freedoms of all Americans.

Furthermore, the new Chief Justice will play a unique and critical role. He will lead the Court. The new Chief Justice will set the initial agenda of what cases should be considered, and assign the justice who will write the majority opinion when he or she is a part of the majority. He will be the most powerful judge in the country.

We all understand that the U.S. Senate has a constitutional obligation to ''advise and consent'' on all Federal judicial nominees. Unlike other nominations that come before the Senate, judicial nominations are lifetime appointments. These are not decisions that will affect our courts for 3 or 4 years but for 30 or 40 years, making it even more important for the Senate to act carefully and responsibly.

I am one of the newer Members of this chamber. In fact, I rank 74th in seniority. I don't have the 20 year voting history on Supreme Court nominees that many of my colleagues do. I didn't vote on the nominations of Justices Scalia, Ginsburg, O'Connor or Thomas.

But I bring a different kind of history to this Chamber. I am the first woman U.S. Senator in history from the State of Michigan. My office is next door to the Sewell Belmont house, where Alice Paul and Lucy Burns planned their suffrage marches and fought to get women the right to vote.

I can see it from my window and every day I am reminded of what the women before me went through so that I could speak on the Senate floor today. I feel the same responsibility to fight against discrimination and for equal rights, for the women that will come after me.

I take this responsibility very seriously and have closely studied Judge Roberts' writings and testimony at the Judiciary Committee hearings. I commend Senators SPECTER and LEAHY for conducting the hearings in a civil and bipartisan manner.

The Judiciary Committee hearings were the only opportunity for Americans to hear directly from Judge Roberts on issues and concerns that impact their daily lives, and to find out what a ''Roberts Court'' might look like. Unfortunately, Judge Roberts refused to answer many of the questions that are on the minds of most Americans.

However, the American people are being asked to hire Judge Roberts for this lifetime job without knowing the answers to most of the interview questions. This problem has been exacerbated by the White House's refusal to share even a limited number of documents from Judge Roberts' time as Deputy Solicitor General.

The Constitution grants all Americans the same rights, liberties and freedoms under the law. These are the sacred, bedrock values upon which the United States of America was founded. And we count on the Supreme Court to protect these constitutional rights at all times, whether they are popular or not.

Unfortunately, Judge Roberts refused to answer most substantive questions

about how he would protect our fundamental constitutional rights. Because of his failure to answer questions on the major legal issues of our time in a forthright manner, I feel compelled to base my decision on his writings and opinions.

When you closely examine these documents, you see a forceful and instinctive opposition toward protecting the fundamental rights of all Americans. In case after case, Judge Roberts argued that the Constitution did not protect workers, voters, women, minorities and people with disabilities from discrimination. He also argued that the Constitution does not firmly establish the right of privacy for all Americans.

In all of his memos, writings and briefs, Judge Roberts took the view that the Constitution only protects Americans in the most narrow and technical ways, and does not convey to us fundamental rights, liberties and freedoms. Because of these views, after much deliberation, I have concluded that Judge Roberts is the wrong choice for a lifetime appointment as Chief Justice of the U.S. Supreme Court.

Judge Roberts is certainly an intelligent man with a record of public service. However, that alone does not qualify him to lead the entire third branch of our government. I believe that his writings reveal a philosophy that undermines our most cherished and fundamental rights, liberties and freedoms as Americans, and for that reason, I will be voting no on his nomination.

The Supreme Court decides cases that have a broad impact on American jobs and the economy. Manufacturing is the backbone of Michigan's economy, and these court decisions will affect the livelihood of the families, workers and businesses I represent. We in Michigan need to know whether Judge Roberts will stand with us and with our families or be on the side of major special interests who were his clients in the private sector.

Right now, we are feeling the full impact of price-gouging and oil company monopolies at the gas pumps. But Americans don't know what Judge Roberts' views are of antitrust and consumer protection laws that punish these illegal corporate practices. How will he rule on cases dealing with insider-trading, anti-competitive business behavior and other kinds of corporate fraud to prevent another Enron?

We don't know if he supports basic consumer protections like patients' rights to receive a second doctor's opinion if their HMO tries to deny them treatment. Judge Roberts fought against these patients' right when he represented HMOs in private practice and Americans are entitled to know where he stands on this issue.

Americans need to know where Judge Roberts stands on worker protections under the Family and Medical Leave Act. And will Judge Roberts rule to protect their pensions and retirement benefits? We don't have the answers to these basic questions.

The foundation of our democracy is the belief that all people are created equal and that every American deserves an equal opportunity for a good education, good job, and a good life. The Supreme Court will be deciding cases that have an enormous impact on our civil rights protections and this fundamental American notion of equality.

As a lawyer in the Reagan administration, Judge Roberts argued against some of the most basic civil rights protections such as workplace discrimination laws and strengthening the Voting Rights Act. When he was asked if he disagreed with any of those positions today, Judge Roberts said he was just reflecting the administration's views, and refused to provide any clarity on his own personal views.

However these memos expressed more than just the administration's position; they included Judge Roberts' own extreme views on everything from school desegregation to title IX.

When urging the Attorney General to step up efforts to oppose legislation to strengthen the Voting Rights Act, Judge Roberts wrote, ''My own view is that something must be done to educate the Senators on the seriousness of this problem.'' This legislation ultimately passed with overwhelming bipartisan support.

In memos, he referred to the ''purported gender gap'' and ''the canard that women are discriminated against because they receive $0.59 to every $1.00 earned by men. . . .'' In response to an equal pay letter from three Republican congresswomen, Roberts wrote, ''I honestly find it troubling that three Republican representatives are so quick to embrace such a radical redistributive concept. Their slogan may as well be 'from each according to his ability, to each according to her gender.' ''

As special assistant, Roberts criticized the Labor Department's affirmative action program and referred to the policies which required ''employers who contract with the government to engage in race and sex conscious affirmative action as a condition of doing business with the government'' as ''offensive.'' Roberts wrote: ''Under our view of the law it is not enough to say that blacks and women have been historically discriminated against as groups and are therefore entitled to special preferences.''

What is particularly troublesome is not just the content of these writings but his tone toward these issues—one that is disrespectful. And one which Judge Roberts refused to disavow during the hearings.

As Senator FEINSTEIN, the only woman on the Senate Judiciary Committee said, ''If Judge Roberts had provided different answers to these questions, he could have easily demonstrated to us that wisdom comes with age, and a sense of his own autonomy. But he did neither.''

These are opinions and attitudes that will have an impact on real people's lives. And Judge Roberts' opinion matters.

They will affect whether or not we have admissions policies that promote diversity at our Nation's universities and policies that help minority-owned and women-owned businesses compete for government contracts.

They will determine how well our antidiscrimination laws are enforced to protect all Americans from housing discrimination, abusive work environments, sexual harassment, discriminatory hiring policies, and sexism in education and collegiate sports under title IX.

And they will determine whether our most fundamental democratic right—the right to vote—is protected.

As Chief Justice, Judge Roberts would decide in case after case, whether these principals of equal opportunity and equal protection should be upheld and whether these laws should be enforced.

The constitutional right to privacy is one of the most fundamental rights we have as Americans. At its core, it is about the role of government in the most personal of family decisions. It is about a woman's right to make her own reproductive choices and a couple's right to use contraception.

But it is also about keeping medical records private to prevent them from being used against Americans in their jobs or when they are trying to get health insurance. It is about a parent's right to send their child to the school of their choice. And it is about the role of government in right-to-die cases, as the nation witnessed in the Terry Schiavo case.

Our constitutional right to privacy is a complicated and often politically charged area of the law. It is extremely important that a Supreme Court nominee approach this issue as a fair and independent-minded jurist who will uphold settled law, and not approach it with a politically motivated agenda.

While Judge Roberts acknowledged that a right to privacy exists, he refused to explain what he believes that right actually encompasses. Like Justice Thomas in his testimony before the committee, Judge Roberts refused to say whether he believed the right to privacy extended beyond a married couple's right to contraception. Senator SCHUMER asked Judge Roberts whether he agreed that there is a ''general'' right to privacy provided in the Constitution. Roberts' response was, ''I wouldn't use the phrase 'general,' because I don't know what that means.''

He repeatedly refused to answer whether the right to privacy protects a woman's right to make her own reproductive choices, and like many women across the country, I was very disappointed that he was evasive in answering this important privacy question.

How Judge Roberts will approach and decide these questions of law will have a profound impact on not just our lives but on the lives of our children and grandchildren.

I had hoped that the hearings would give us insight into his legal reasoning and judicial philosophy on all of these important issues. And I strongly believe that the American people deserve these answers. This isn't a decision that should be based on guesswork or a leap of faith.

So all we have to go on are Judge Roberts' own writings over the past 25 years. Based on this record, I cannot in good conscience cast my vote for John Roberts to be Chief Justice of the United States Supreme Court.

Mr. KOHL. Mr. President, Judge Roberts came before the Senate Judiciary Committee earlier this month as a very well respected judge with a sterling academic record and a remarkable legal career. He left the Judiciary Committee with that reputation intact, if not enhanced. I have enormous respect for Judge Roberts' legal talents. They are undeniable. As a result, I supported his nomination last week in the Senate Judiciary Committee.

It is for this reason, his distinguished career and his sterling reputation as a lawyer and a judge, that I will vote my hopes today and not my fears and support Judge Roberts' nomination for Chief Justice of the United States.

During a private meeting with him, as well as through four impressive days of testimony, Judge Roberts made clear that he will be a modest judge. He assures us that he will address each case on its merits and approach each argument with an open mind. He recognized that judges should not substitute their policy preferences for those of Congress, and I agree.

Judge Roberts sees a clear boundary to the judge's role. He told us repeatedly that his personal views about issues did not matter. He assured us that he will not be an activist; and that he will rarely, if ever, look to overturn precedent. Rather, precedent, not his version of how the law should be, will mark the beginning of his constitutional analysis.

Judge Roberts recognizes a right to privacy in the Constitution, and he understands that people have come to rely on it. He made clear his agreement with the cases on the right to privacy that led to the Court's decisions in Roe and Casey.

Judge Roberts rejected ''originalist'' or a ''literalist'' philosophies. He does not bind the Constitution to narrow interpretations of the past. Too many judicial activists have used this philosophy to limit our rights and freedoms. Judge Roberts believes that as society evolves, our interpretation of the Constitution must evolve with it.

We choose to take Judge Roberts at his word, and believe that those words will bind him throughout his tenure on the Court. Ultimately, Judge Roberts persuaded us that he will be the Chief Justice we saw during his hearing, not the Chief Justice that his critics see in his past.

Nonetheless, the decision was not an easy one. While I support moderation in judicial temperament, I do not support inaction in the face of injustice. I worry that a Court full of neutral umpires would not have decided Brown v. Board of Education or other cases in which the Court moved America forward. Modesty is to be respected to a point, but not when it stands in the way of progress. Historically, the courts have often succeeded when our democratically-elected branches could not.

However, Judge Roberts testified, and I do not disagree, that his confirmation to replace Chief Justice Rehnquist will not radically shift the balance of the Court. If he had been nominated, as he was originally, to replace Justice O'Connor then his confirmation would have moved the Court to the right. That would have been a much more difficult decision. It is my hope that the White House recognizes this concern when they choose their next nominee.

In considering my decision, I was troubled by parts of Judge Roberts' record, but I was impressed by the man himself. I will support him as a Chief Justice who will keep an open mind and reject ideological extremism and simplistic approaches to interpreting the Constitution. I will vote my hopes and not my fears.

Mr. ROCKEFELLER. Mr. President, I rise today in support of the nomination of Judge John G. Roberts, Jr., to be Chief Justice of the United States Supreme Court.

In Judge Roberts the Nation is presented with a nominee who possesses an extraordinary intellect, a modest temperament, and a steady hand. I see in him the will and the ability to seek common ground among the Justices of the Court on important national issues. And I believe he possesses sufficient humility, as a man and as a judge, to be mindful of the powerful impact of his actions on the lives of average Americans.

Four days of intensive hearings allowed all of us, and much of America, to come to know something of John Roberts and to observe and assess what we don't know.

None of us can fully fathom the matters that will be determined, and the people who will be affected, by a judge with lifetime tenure on the highest Court of the land. John Roberts today very likely becomes the Chief Justice of a generation.

It is not surprising that this President would select a nominee with whom I disagree on some important issues, particularly as articulated in his early policy work. But it is reassuring, and ultimately determinative, that the President has selected a nominee who asserts with conviction, supported by the record, that he is not an ideologue, that he takes precedent as established law and people and cases as they come before him. I take him at his word, and trust that in interpreting and applying the law he will be his own man.

Yet once a nominee's high credentials and unimpeachable integrity have been established, the selection of a Supreme Court justice further demands of us a leap of faith. And it is in that leap of faith that we must attempt to know more: Who is he as a person? What is his understanding of the human condition? Does he take seriously our fundamental responsibility to people as well as to legal concepts?

Judge Roberts and I had the opportunity to meet in recent days to discuss his nomination. We had a good, long talk about West Virginia and our country and the people who make America great.

In talking with Judge Roberts I looked for assurance that when he tackles the grave questions that will come before his Court, he will consider fully the lives of average people, the lives of those in need and those whose voices often are not heard, the lives of working men and women, children, the elderly, our veterans.

Judge Roberts listened. He is a careful and attentive listener. And, I want my fellow West Virginians to know, Judge Roberts shared that his grandfather was a coal miner and his father worked in the steel mills, and that he is, in fact, mindful of the awesome responsibility he faces toward all Americans, from all walks of life, equally and unequivocally deserving of the rights and protections of our Nation.

I yield the floor.

Mr. LAUTENBERG. Mr. President, the Constitution grants the Senate the power and responsibility to advise and consent on the President's judicial nominations. And there is no more important judicial nomination than Chief Justice of the United States.

The President and Congress share responsibility for the makeup of the third branch. The President nominates a candidate to be a Federal judge, and the Senate is required to give its advice and consent for that nominee to be placed on the bench. It is a shared function; the Senate is not merely a rubber stamp for a President's nominee.

To evaluate a nominee, Congress must be informed about that nominee. We are not supposed to consent first and be informed later.

In the case of Judge Roberts, we cannot make an informed judgment because he was so evasive at his hearing. During his confirmation hearing, Judge Roberts declined to answer questions more than 90 times. The Senate and the American people deserve to know more about an individual who will lead our Nation's judiciary for decades to come.

Despite numerous efforts by members of the Senate Judiciary Committee, the Bush administration was not forthcoming. Not a single document from the years when Roberts was deputy Solicitor General was made available.

To be deprived of important information left me unable to give informed consent. The Constitution requires the

Senate to advise and consent on these lifetime appointments, not to consent first and advise later.

However, there are some things we do know about John Roberts. We know that as an attorney for the Reagan and first Bush administrations, his writings on many issues relating to women's rights were disturbing for those concerned about such matters. In an official memo to the Attorney General, Roberts wrote about the ''so-called right to privacy.'' In the Supreme Court case Rust v. Sullivan, Roberts co-authored a brief that declared Roe v. Wade was ''wrongly decided'' and should be overturned. At his hearings, Mr. Roberts refused to clarify whether he still would vote to overturn Roe.

Roberts also wrote of a ''perceived'' gender bias in the workplace. A ''perceived'' bias?

I know that Roberts admitted in his confirmation hearings that there has been discrimination against women in the past. He had to say that. But did he really once believe such a bias was merely ''perceived,'' and could he still believe that today?

Let me tell my colleague, about gender bias that was not perceived. When my father died at an early age, my mother was left a young widow. I watched her struggle to make her way in the workplace. She never got the same opportunities for advancement as men. She was very successful as an insurance sales person, but she was told that after the war, the company she worked for would be unable to continue her employment. Her manager told her, ''You know, we don't hire women for these jobs,'' and thus she was terminated.

The views of John Roberts portray a judge who could also undermine important protections for the environment and minorities. In his 2 years as a judge on the U.S. Court of Appeals for the DC Circuit, for instance, Mr. Roberts did not support congressional powers to use the commerce clause of our Constitution to pass clean air and clean water regulations.

While working for President Reagan, Roberts opposed a bill in Congress that would have strengthened the protections of the Voting Rights Act. Memos from the 1980s also show that Roberts supported the Reagan administration's opposition to measures initiated to redress past racial discrimination.

John Roberts has said that when writing many of these memos in Republican administrations, he was merely a staff attorney, just doing his job, advocating the position of his client. He claims that these memos do not necessarily reflect his views.

Yet, when the Judiciary Committee gave him ample opportunities to clarify exactly which memos expressed his views and which ones did not, he declined to answer.

So, even though Mr. Roberts had ample opportunity to answer the questions of the Judiciary Committee, we are still uncertain what he really believes.

I believe the risk is too great to support the confirmation of a Chief Justice to the United States Supreme Court, the highest-ranking leader in the judicial branch of our Government.

The fact that he is an intelligent and experienced fellow isn't enough. That is not enough for me to be able to reassure the people of New Jersey that he would preserve and protect their rights. I don't know some things that I need to know and some of the things that I do know are disconcerting. I will therefore oppose his confirmation.

Mrs. DOLE. Mr. President, Judge John Roberts is indeed an outstanding choice to be the 17th Chief Justice of the United States. He is one of our Nation's top legal minds, and as the American public has learned, he is a man of great intelligence and skill who will serve our country with the same integrity that has been the hallmark of his professional career.

In fact, it is hard to think of anyone who is more qualified to lead this Nation's High Court. Soon after graduating magna cum laude from Harvard Law, where he was managing editor of the Harvard Law Review, Roberts clerked for then-Associate Justice Rehnquist—a man he learned much from and deeply admired for 25 years. He went on to work in various legal capacities in the Reagan administration and later went into private practice. Just 2 ago, the Senate confirmed Roberts for a seat on the DC Circuit Court of Appeals.

In his distinguished career, including his tenure as a government lawyer, Roberts has argued a remarkable 39 cases before the Supreme Court. The issues at the heart of these cases have spanned the legal spectrum—from healthcare law to Indian law, environmental law to labor law, and many, many other areas of the law as well.

In his Senate confirmation hearings last week, John Roberts reinforced that he will be the kind of Chief Justice America needs and deserves. Undergoing hours upon hours of questioning, Judge Roberts maintained a steady, even temperament. He politely and respectfully answered more than 500 questions—and amazingly without much of a glance at notes. Most importantly, Judge Roberts revealed a great deal about how he views the judicial role. He emphasized that he is committed to the rule of law, not to his personal preferences or views. He emphasized his belief that judges are not politicians or legislators and that the role of a judge is limited. I wholeheartedly agree with Judge Roberts' assessment of the appropriate role of judges, and I am confident that he will strictly uphold the law and not attempt to legislate his own personal views from the bench.

I can think of no vote more important, save a declaration of war, than giving advice and consent to a nominee for Chief Justice of the United States. This has been a fair process, and the Judiciary Committee held extensive and meaningful hearings. Over the course of the last week, the Senate has conducted a spirited debate on the qualifications of John Roberts to be the next Chief Justice. And today, we will give him an up or down vote.

I am very pleased that my colleagues have proceeded expeditiously on the nomination of Judge Roberts, as it is of utmost importance that this nation's High Court have a new Chief Justice before the start of the Court's fall term.

For many in this Chamber, today's vote will be the only time in their entire Senate careers that they provide advice and consent on a nominee to be Chief Justice. I commend my colleagues who have risen above the normal day-to-day politics of this institution. But still, there are some of you who question how Judge Roberts will vote on specific cases in the future. Others of you may also be swayed by the passions of partisans.

But none have questioned Judge Robert's integrity. None have questioned his temperament. None have questioned his intellectual ability. And none have questioned his qualifications. These are the traditional measures the Senate has looked to when evaluating a judicial nomination of this importance. I would ask that my fellow Senators look to these time-tested standards and vote to confirm John Roberts as Chief Justice of the United States.

Ms. LANDRIEU. Mr. President, I will vote for the nomination of John Roberts to be the next Chief Justice of the United States. He is intelligent with an impressive educational background; extensive experience arguing before the Supreme Court; and distinguished public service experience at the highest levels of government. Based on his resume, he has the qualifications to be Chief Justice.

But a nominee's resume alone is not automatic grounds for confirmation to any office. The Senate has a duty to delve more deeply beyond a nominee's paper record. So while Judge Roberts's credentials are clearly impressive, I still had concerns about his original nomination to the Court.

My concern lay in the fact that Judge Roberts was originally nominated to replace Justice Sandra Day O'Connor who in her 24 years on the court brought a voice of moderation and balance to an increasingly polarized body. She wrote opinions that surprised and outraged both the right and the left; proof positive that she was not grinding a particular political ax or was beholden to one unbending judicial philosophy. She judged and considered both sides of a case and the law carefully and was more interested in getting the case right than pushing a particular agenda.

Justice O'Connor understood, just as Potter Stewart did before her, that power on the Court lay in the center, not at the extremes. Judge Roberts was about to replace that all-important center. I was not sure which way he would go. In the wake of William Rehnquist's death, my concerns for this nominee deepened.

We had seen far right wing conservative ideologues nominated for these life-long positions on the Federal bench. Democrats fought for greater consultation with the President about them, only to be met with the ''nuclear

option.'' Fortunately, a group of my colleagues and I were able to reach agreement to avoid this outcome; we were called the Gang of 14. Judge Roberts's nomination was going to be the first major test of this agreement.

When I had the opportunity to meet with Judge Roberts, he was able to relieve some of my concerns, enough that I knew we would not have to consider a filibuster. He struck me in two ways. First, he described his judicial philosophy as modest. Modesty is not a word that gets used to describe public figures in Washington, DC, that often. He saw the role of a judge as being limited. As he said in his opening remarks before his hearing: ''I come before the committee with no agenda. I have no platform. Judges are not politicians who can promise to do certain things in exchange for votes. I have no agenda, but I do have a commitment. If I am confirmed, I will confront every case with an open mind.'' He further said that the legitimacy of a judge's role is confined to interpreting the law and not making it.

The second thing that impressed me in our meeting was his appreciation that for many in this country the Supreme Court is seen as the last hope they have to ensure that their rights are not taken away. Earlier this year, as my colleagues will remember the Senate finally went on record apologizing for lynching. James Allen's book ''Without Sanctuary'' described in vivid black and white photos and prose the acts of barbarism that were used to terrorize African Americans in our Nation's not too distant past.

I showed this book to Judge Roberts and he was visibly moved. He told me that he never wanted to forget that the courts were there to protect the powerless. Lynching victims did not get due process of law, even though many of the mobs had law enforcement officers in their midst, and often acted to avenge some perceived crime. Those victims did not get a jury trial with the right to face their accusers as called for under the Constitution.

I came away from this meeting believing he will treat all people who come before the Court with respect. That every argument would receive fair consideration because for the party making that argument a tremendous amount could be at stake.

I am well aware of the criticism of Judge Roberts's earlier writings both those we have seen and several we have not. Some of the things he wrote while a young lawyer in the Reagan White House and Justice Departments indicate that he was hostile to civil rights, women's rights, the Voting Rights Act, and the right of privacy. While he was in the Solicitor General's office he wrote a brief suggesting that Roe v. Wade be overruled.

In thinking about these writings and what they mean for who he is now, I was reminded of something that Justice Oliver Wendell Holmes once said: ''The character of every act depends upon the circumstances in which it is done.'' I chose to look at Judge Roberts's earlier writings in the same light. When Judge Roberts wrote those things he was a young lawyer who came to the Reagan Administration fresh from a prestigious clerkship with then Associate Justice William Rehnquist. He was a young conservative working at the highest levels of power in our country for a conservative icon, President Reagan. In those positions he was an advocate for the administration and the President's agenda at the time.

His most recent experience in private practice has changed his views on the role of the court, the law, and the needs of individuals. He pointed out to me that he has represented a wide range of clients in his private practice: large and small businesses, indigent defendants, and State governments. Each one, he said, deserved a careful analysis of their position and how the law would apply to their case. He took that approach to his current work on the Court of appeals.

I believe that Judge Roberts has taken to heart another observation by Oliver Wendell Holmes and that is, ''to have doubted one's own first principles is the mark of a civilized man.'' Judge Roberts, I am sure would look back on his earlier writings and understand that he must revisit them in light of the new responsibilities he is about to undertake.

In the weeks leading up to the confirmation hearings, there was a great deal of discussion and criticism of the administration for not turning over memoranda Judge Roberts wrote while he was Deputy Solicitor General at the Department of Justice. I was disappointed that the administration was not more forthcoming with these documents. I hope in the future we can reach an accommodation of some kind so that Senators will have complete information on a nominee. But the fact that we do not have these memos is not enough to keep this highly qualified nominee from becoming our next Chief Justice.

I want to congratulate Chairman SPECTER and Ranking Member LEAHY for the quality of the hearings they held for this nominee. The questioning was tough, but fair, and the committee performed its work with dignity. The hearing record gave us plenty of information to go on in making our decisions about this nominee. The qualities that every member of the Judiciary Committee saw in Judge Roberts, I saw firsthand in our meeting.

John Roberts is an excellent nominee who will be a fine Chief Justice. I encourage President Bush to send us a similarly qualified, modest, fair nominee to replace Justice O'Connor. The White House reached out to many Senators before naming Judge Roberts and I hope the administration will continue to build on that approach for this next nominee. I fully expect the President to nominate a conservative to fill Justice O'Connor's seat, but I also expect that nominee to be fair. Judge Roberts has set a very high bar. I hope the next nominee meets that standard.

The PRESIDING OFFICER. The majority whip.

Mr. MCCONNELL. Madam President, Senators cast many important votes—votes to strengthen our highway system, or to implement a comprehensive energy strategy, for example—but it is not often we cast a vote that is both important and truly historic. We do so, however, when we vote on whether to confirm a nominee to be Chief Justice of the United States.

There have been 9,869 Members of the House of Representatives, 1,884 Senators, and 43 Presidents of the United States, but only 16 Chief Justices. On average, each Chief Justice serves for well over a decade. Our last Chief Justice served for 19 years, a little short of two decades. The occupant of the ''center seat'' on the Court often has had a profound impact on the shape and substance of our legal system. But despite such profound effects, the position of Chief Justice actually got off to a rather inauspicious start.

The Constitution of the United States mentions the position of Chief Justice only once. Interestingly, it does not do so in Article III, which establishes the judicial branch of our Government. Rather, the Constitution refers to the position of Chief Justice, almost in passing, only in Article I, which sets forth the powers of the legislative branch.

There, in section 3, clause 6, it discusses the Senate's procedures for a trial of an impeached President, stating that ''When the President of the United States is tried, the Chief Justice shall preside.'' That is the sum and substance of his constitutional authority.

The Judiciary Act of 1789, which established the Federal court system, did not add much to the Chief Justice's responsibilities. It specified merely that ''the supreme court of the United States shall consist of a chief justice and five associate justices.''

It is not surprising, then, that the position of Chief Justice initially was not viewed as particularly important. Indeed, the first Chief Justice, John Jay, left completely disillusioned, believing that neither the Court nor the post would ever amount to very much.

It took George Washington four tries to find Jay's successor, as prominent people repeatedly turned him down. They were turning down George Washington's offers to make them the Chief Justice of the United States.

With such humble constitutional roots for the office, the power, prestige, and independence of the Supreme Court and the Federal court system in general often has been tied to the particular personal qualities of those who have served as Chief Justice.

John Marshall was our first great Chief Justice. His twin legacies were to increase respect for the Court and, relatedly, its power as well. He worked to

establish clear, unanimous opinions for the Court, and his opinion in Marbury v. Madison forever cemented the Court as a coequal branch of Government.

Marshall's successes were viewed, then as now, as a function of his formidable personal qualities. He is said to have had a ''first-class mind and a thoroughly engaging personality.'' Thomas Jefferson, for example, tried, in vain, to break his influence on the Court. In writing to James Madison, his successor, about Supreme Court appointments, Jefferson said:

> [I]t will be difficult to find a character of firmness to preserve his independence on the same bench with Marshall.

That is Thomas Jefferson speaking about Chief Justice Marshall.

I find myself agreeing with the columnist George Will, who wrote recently in one of his columns:

> Marshall is the most important American never to have been President.

William Howard Taft and Charles Evans Hughes also used their individual talents to become great Chief Justices. Taft, the only Chief Justice to serve also as President, which was prior to that, had a singular determination to modernize the Federal courts. He used his energy and his political acumen to convince Congress to establish what is now the Judicial Conference of the United States to administer the Federal courts; enact the Judiciary Act of 1925, which allowed the Court to decide the cases it would hear; and, before he left office, to give the Court its first, and current, permanent home—a stone's throw from where we stand today, across the East Lawn of the Capitol.

A fellow Justice called Charles Evans Hughes ''the greatest in a great line of Chief Justices.'' He was known for his leadership in running the Court and for constantly working to enhance the public's confidence in the Court. His successes were at least partly due to his keen appreciation of the limits of that office. This is what Charles Evans Hughes had to say:

> The Chief Justice as the head of the Court has an outstanding position, but in a small body of able men with equal authority in the making of decisions, it is evident that his actual influence will depend on the strength of his character and the demonstration of his ability in the intimate relations of the judges.

Hughes was famous for the efficient, skillful, and courteous way in which he presided at oral argument, ran the Court's conferences, and assigned opinions, calling the latter his ''most delicate task.'' But his greatest service may have been in spearheading public opposition to FDR's court-packing plan.

Our last great Chief Justice, William Rehnquist, may be said to have possessed the best qualities of Marshall, Taft, and Hughes. He had an exceptional mind, an engaging personality, boundless energy, and a courteous and professional manner. These qualities helped him revolutionize Federal jurisprudence, administer the Supreme Court and the court system very efficiently, and interact constructively with those of us here in Congress.

Of course, we will soon vote on the nomination of his successor, Judge John Roberts, who, in one of life's bittersweet turns, served as a young and able law clerk to then-Associate Justice Rehnquist. In meeting with him, and watching his confirmation hearings, I believe Judge Roberts possesses many of the qualities of our great Chief Justices: an impressive legal acumen, a sterling reputation for integrity, and an outstanding judicial temperament. But I want to focus on one quality in particular; and that is, his devotion to the rule of law.

We use that term all the time, but the question is, what does it mean? I focus on the rule of law because of the positions my colleagues have taken during his nomination. One distinguished Member of this body said on the floor that he needed to find out ''whose side'' John Roberts ''is on.'' Another asked Judge Roberts whether, as a general proposition, he will be on the side of the ''big guy'' or the ''little guy.'' Still another insisted that the position to which Judge Roberts is nominated is akin to an elected official; in other words, an elected politician. Comments such as these are based on a fundamental misunderstanding of the role of a judge.

Many of the Founders were politicians, and they, of course, recognized that politics may favor certain constituencies. Judges, however, are not supposed to be on any group's ''side.'' They are not supposed to favor one party's ''little guy'' at the expense of another political party's ''big guy.'' In short, judges are anti-politicians; at least they are supposed to be.

In giving life tenure to Federal judges, the Founders did not want them—did not want them—to exercise the powers of politicians, to whom they had denied life tenure. None of us are given life tenure here, for good reason. As Alexander Hamilton wrote in Federalist No. 78:

> It can be of no weight to say that the courts . . . may substitute their own pleasure to the constitutional intentions of the legislature. . . . The Courts must declare the sense of the law; and if they should be disposed to exercise will instead of judgment—
>
> ''Will instead of judgment''—
>
> the consequence would equally be the substitution of their pleasure to that of the legislative body.

In other words, judges must only interpret the law, not write it in order to favor one group over another. Judge Roberts understands the role of a judge is that, and he is committed to adhering to it. Here is what he had to say. This was Judge Roberts at his hearing:

> Judges are not politicians who can promise to do certain things in exchange for votes. I have no agenda, but I do have a commitment. If I am confirmed, I will confront every case with an open mind. . . . and I will decide every case . . . according to the rule of law, without fear or favor, to the best of my ability.
>
> ''Without fear or favor, to the best of my ability.''

To put it more simply, he knows if the law favors the ''little guy,'' then the ''little guy'' will win. If the law favors the ''big guy,'' then the ''big guy'' will win. It is as simple and principled as that.

I do not know—none of us do—the mark a Chief Justice Roberts will leave on the Court. With his many fine qualities, he may be a great administrator. He may lead some great reform of our court system. He may revolutionize some area of law. But he will be a successful leader. And I suspect that whatever else, with his total devotion to the rule of law, he will instill in our legal system a renewed appreciation for the role of judges in our Republic and, thereby, keep the Court on the path the Founders intended.

So today, I, like my colleagues, am mindful of the gravity and the privilege of this vote to confirm our 17th Chief Justice. I do so with the absolute conviction that Judge John Roberts meets the measure of his great predecessors, and will lead the Court with judgment, skill, and integrity as befits the third branch of Government—the branch that protects our liberties by insisting that ours is a country of laws and not of men.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Under the previous order, the time from 10:30 a.m. to 10:45 a.m. will be under the control of the Senator from Vermont.

Mr. LEAHY. Madam President, as we come to the conclusion of these confirmation proceedings, I commend Senators on both sides of the aisle for taking the time and making the effort to actively participate in this process. Few duties and few votes are as enduring and as consequential as deciding on a nomination for the premier jurist of the United States in our Federal court system. We have had 43 Presidents in our Nation's history. We have only had 16 Chief Justices of the United States. In fact, only slightly under two dozen Members of the Senate have ever voted on the question of a Chief Justice.

We have had full and fair hearings. We have had a constructive debate. This process has been a credit to the Senate and to the Judiciary Committee. I commend especially Senator SPECTER of Pennsylvania, our chairman, and all of the members of the committee on both sides and their staffs for the detailed, sometimes grueling, preparation that evaluating a Supreme Court nomination requires.

I am sure people understand when I refer to the committee's Democratic

staff. They worked for 2 months. They labored dutifully. They gave up their weekends and their evenings, and with professionalism they helped Senators in our review of this important nomination. I particularly thank Bruce Cohen, Edward Pagano, Andrew Mason, Chris Matthias, Daniel Fine, Daniel Triggs, David Carle, Ed Barron, Elizabeth Martin, Erica Chabot, Erica Santo Pietro, Helaine Greenfeld, Jennie Pasquarella, Jeremy Paris, Jessica Bashford, Joe Sexton, Joshu Harris, Julia Franklin, Julie Katzman, Kathryn Neal, Katy Hutchison, Kristine Lucius, Kyra Harris, Lisa Anderson, Margaret Gage, Marit DeLozier, Mary Kate Meyer, Matt Nelson, Matt Oresman, Matt Virkstis, Nate Burris, Noah Bookbinder, Sam Schneider, Sripriya Narasimhan, Susan Davies, Tara Magner, Tracy Schmaler, Valerie Frias and William Bittinger. And their experience was duplicated by the hard-working Republican staff.

As a member of the minority party, I speak about our vital role in our system that is often less visible, but is crucial just the same. The minority sharpens the Senate's and the public's focus on issues that come before the Senate or sometimes on unattended issues that deserve the Senate's attention.

In these proceedings, we have helped sharpen the Senate's focus on issues that matter most in the decision before us, that of confirming a new Chief Justice of the United States.

I especially commend my fellow Democrats for taking this responsibility so dutifully. They waited to hear the evidence and to learn the particulars about this nomination. They did not rush to judgment. They did not speak out until after the hearings. Individual Senators now have weighed the evidence, and they have come to their individual conclusions.

On this side of the aisle, there will not be a lockstep vote. I appreciate the thoughtful remarks by those who decided to vote in favor of confirmation and by those who decide to vote against the nomination. I respect the decisions of Senators who have come to different conclusions on this nomination. I know for many, including myself, it was a difficult decision. I have said that each Senator must carefully weigh this matter and decide for herself or himself.

We are, each of us, 1 vote out of 100, but those 100 votes are entrusted with protecting the rights of 280 million of our fellow citizens. We stand in the shoes of 280 million Americans in this Chamber. What a somber and humbling responsibility we have in casting this vote.

I was glad to hear the Republican leader say earlier this week that a judge must jettison politics in order to be a fair jurist. He is right. I thought the remarks of the senior Senator from Maine were especially meaningful, and I appreciated that she was careful to include judicial philosophy among the criteria she considered on this nomination. And of course she is right.

As the Senate considers the nomination, it is important to have more information, rather than less, about a nominee's approach to the law and about his or her judicial philosophy.

For the American people whose lives will be directly and indirectly affected by the decisions of a nominee, it is equally important that the Senate's review process be fair, that it be transparent, and that it be thorough. The hearings we conduct and the debates we hold are the best and only opportunity for the American people to hear from and learn about the persons who could have significant influence over their constitutional protections and freedoms. We owe the people we represent a vigorous and open review, including forthright answers to questions.

My Vermont roots, which go back three centuries, have always told me to go with my conscience, and that is what I have done in this decision. Judge Roberts is a man of integrity. For me, a vote to confirm requires faith that the words he spoke to the Judiciary Committee in the hearings and to me in our meetings have meaning. I have taken him at his word that he does not have an ideological agenda, that he will be his own man as Chief Justice. I take him at his word that he will steer the Court so it will serve as an appropriate check on potential abuses of Presidential power, not just today but tomorrow. I hope that he will, and I trust that he will.

As we close the debate on this nomination and move to a vote, we do so knowing we will soon be considering another Supreme Court nominee in the Senate. Last week, Chairman SPECTER and I, along with the Republican and Democratic leaders of the Senate, met with the President. I urged him to follow through with meaningful consultation. I urged him to share with us his intentions and seek our advice on the next nomination before he acts.

There could and should have been consultation with the Senate on the nomination of someone to serve as the 17th Chief Justice of the United States. I am sorry there was not, but there could and should be meaningful consultation on the person to be named to succeed Justice O'Connor, who has so often been the decisive vote of the Supreme Court.

The stakes for all Americans and for the Nation's well-being are high as the President contemplates his second pick for a Justice on the Nation's highest Court, a choice that will fill a swing vote and could steer the Court's direction long after the President is gone and long after most of us are gone.

The President does have this opportunity to work with us to unite the country, to be a uniter, to unite us around a nominee to succeed Justice O'Connor. Now more than ever, with Americans fighting and dying in Iraq every day, with hundreds of thousands of Americans displaced by disasters at home, it is a time to unite rather than divide. The Supreme Court belongs to all Americans, not to any faction. So for the sake of the Nation, I urge the President to live up to his original promise, to be a uniter and not a divider.

If I might speak just personally to Judge John Roberts who will soon be Chief Justice John Roberts: Be there for all Americans. And whoever comes before you as Chief Justice, it should make no difference if their name is PATRICK LEAHY or Patrick Jones, George Bush or George Smith. No matter what their issue is, be there for all of us because what you do will affect our children and our grandchildren. And, Judge Roberts, it will affect your two lovely children. It will affect all Americans.

We are a great and a good country, but we are a diverse country. Any nation the size of ours, a nation built on immigrants—such as my Italian grandparents or my Irish great grandparents—has to be diverse. But we are diverse in all ways. Protect that diversity. Protect that diversity because it is that diversity that makes us strong as a nation, far more than our military might if we protect our diversity—a diversity of thought, a diversity of religion, a diversity of race, a diversity of politics.

Judge Roberts, soon to be Chief Justice Roberts, be there for all 280 million Americans. That is what I have tried to do in putting myself in the shoes of those 280 million Americans. I will cast my vote with hope and faith, but you, Judge Roberts, show the same hope and faith for this great country that you love and I love and all the other 99 Members of the Senate love.

Madam President, I yield the floor.

The PRESIDING OFFICER. Under the previous order, the time from 10:45 a.m. to 11 a.m. will be under the control of the Senator from Pennsylvania.

The Senator from Pennsylvania.

Mr. SPECTER. Madam President, at the outset, I compliment and salute my distinguished colleague, Senator LEAHY, for his appropriate, really elegant, remarks in support of the nomination of Judge Roberts to be Chief Justice. I compliment him on his leadership in taking a difficult stand, being the first Democrat to announce support for Judge Roberts' confirmation. It is difficult to step out against party leadership, against what may be a party position, but I believe it is precisely that kind of leadership which is so important for the Senate to discharge its constitutional responsibility in the confirmation process. I compliment as well the other committee members—Senator KOHL and Senator FEINGOLD for stepping out in support of Judge Roberts. And at last count, I know that some 18 Democrats have stated their intention to vote for Judge Roberts.

As yet, there are some who are undeclared, so that number will grow

beyond. I believe it is a matter of real urgency that when we come to the designation of the Chief Justice of the United States, or any Supreme Court nominee, that politics stop. We say in foreign policy that partisanship should stop at the water's edge, and I extend that metaphor on the recognition that the pillars of the Senate immediately outside the Chamber are lined up directly with the pillars of the Supreme Court of the United States.

In that intervening few blocks on the green, on the Capitol complex, that partisanship should stop at the Senate pillars as they extend across the way to the Supreme Court pillars.

In the confirmation of a Supreme Court nominee, there is a unique confluence of the three branches of Government on our separation of powers, with the President exercising the executive authority to nominate, the Senate on the confirmation process, and then the seating of the new Justice in the Supreme Court. It is a matter of vital concern that it be nonpartisan.

Twelve days ago, on September 17, at the Constitution Center in Philadelphia, the 218th anniversary of the signing of the Constitution was celebrated. Today is an historic day, with Judge Roberts, by all conventional wisdom, slated to become the 17th Chief Justice of the United States. On only 16 occasions in the past have we had a new Chief Justice of our Nation.

I believe Judge Roberts comes to this position uniquely qualified, with an academic record of superior standing, magna cum laude, summa cum laude, Harvard College and Harvard Law School, a distinguished career clerking first with Circuit Judge Henry Friendly, a very distinguished judge in the Court of Appeals; then clerked for then Associate Justice Rehnquist; then as an assistant to Attorney General William French Smith; later as associate White House counsel in the Reagan administration; a distinguished practice in the law firm of Hogan & Hartson; then 39 cases argued before the Supreme Court of the United States. So he has a phenomenal record.

His answers to the questioning before the committee, which I think was very intense, very directed, appropriately tough, was that he saw the Constitution as a document for the ages responding to societal changes; that he saw the phrases ''equal protection of the law'' and ''due process of law'' as expansive phrases which can accommodate societal changes.

As he approaches the job of Chief Justice, he has a remarkable running start. He described his arguments before the Court as a dialog among equals, a phrase that I think is unique and in a sense remarkable; that as an advocate he had the confidence to consider himself talking to equals when he addressed the nine members of the Supreme Court.

There have already been indications from the members of the Court about their liking the fact that Judge Roberts is going to be the new Chief Justice. It is not easy to come into a court at the age of 50, where Justice Stevens, the senior Justice, is 85 and others, Justice Scalia, 68, the next youngest member, Justice Thomas, 57. When he has the self-confidence to consider as an advocate a dialog among equals, that is a good sign that he has the potential to bring consensus to the Court.

There was an extended discussion during his confirmation proceeding about what Chief Justice Earl Warren did in bringing the Court together for a unanimous decision in Brown v. Board of Education and how important it was. In a case involving deep-seated patterns of segregation and the difficulty of implementing that decision and the years it has taken—it is still a work in process to give quality to African Americans, to Blacks in our society—let us make no mistake about it, it has been, since 1954 when the decision came down, 51 years, and there is still more work to be done, but it was an outstanding job by Chief Justice Warren to bring the Court together with a unanimous decision to put desegregation on the best possible plane with unanimity among the nine Justices who decided the case.

As I emphasized during my questioning of Judge Roberts, there is much to be done to move away from the 5-to-4 decisions of the Court, some inexplicable this year. The Court upheld the displaying of the Ten Commandments on a tower in Texas 5 to 4, and rejected displaying the Ten Commandments in Kentucky; within the past 5 years, inconsistent decisions on the interpretation of the Americans with Disabilities Act, 5 to 4 upholding the access provisions, 5 to 4 rejecting the constitutionality on the provisions relating to discrimination in employment.

Judge Roberts as Chief Justice has the capacity to fully understand the balance of power between the Congress and the Court and to move away from the denigrating comments that the Court made in Alabama v. Garrett that in declaring an act unconstitutional they had a superior ''method of reasoning,'' or that in establishing the flabby test, flabby being the words of Justice Scalia, on invoking the test of proportionality and congruence in the 1997 case of Boerne, where Justice Scalia accurately noted in his dissent in Tennessee v. Lane that it was a flabby test that allowed judicial legislation and that the Court was setting itself up as the taskmaster of the Congress to see that the Congress had done its homework.

So the new Chief Justice will have his work cut out in trying to bring a consensus on the reduction of the proliferation of opinions with so many concurrences coming out of the Court.

Yesterday's Washington Post had a headline about a filibuster showdown looms in the Senate and a recitation of frustration among so-called Democratic political activists who do not think their elected leaders put up a serious enough fight as to Judge Roberts.

Having been there for every minute of the Roberts proceeding in my capacity as chairman to preside, it was a searching, probing inquiry into Judge Roberts' background and his approach to the issue confronting the Court. When they say there was not a sufficient fight, there were very senior Senators, very experienced, leading the opposition. Who can challenge the tenacity of Senator KENNEDY, Senator BIDEN, Senator FEINSTEIN, Senator SCHUMER, and Senator DURBIN putting up that battle?

In the final analysis, we have had many experienced Senators who have come forward to join Senators LEAHY, KOHL, and FEINGOLD on the committee, and Senators of standing and distinction—Senator BYRD, who has been in this body since his election in 1958, Senator LEVIN, 27 years in this body, Senator DODD, 25 years, Senator LIEBERMAN, and so many among the 18 Senators—where there is the showing of that kind of bipartisanship.

It is my hope we will carry forward the spirit of bipartisanship which was demonstrated in the last two confirmation proceedings. Justice Breyer was confirmed in 1994 with an 87-to-9 vote, with 31 Republicans joining 56 Democrats, so it did not make any difference to 31 Republicans that Justice Breyer was nominated by President Clinton, who was a Democrat.

The year before, Justice Ginsburg was confirmed 96 to 3, with 41 Republicans voting for her nomination. Before that, Justice Souter was confirmed 90 to 9, with 45 Democrats joining 45 Republicans. Nine Democrats did vote ''no'' against Justice Souter, perhaps influenced by the posters that he would wreck Roe v. Wade. We know he was in the joint opinion in Casey v. Planned Parenthood.

Before that, the votes were unanimous as to Justice John Paul Stevens and Justice Scalia, 98 to 0, and Justice O'Connor was confirmed 99 to 0.

While the votes among the Democrats will not be as strong as the 41 Republicans who voted for President Clinton's nomination of Justice Ginsburg, we have a sufficient indication of a strong bipartisan vote so that I think it is not unduly optimistic to look for a future where we will have partisanship stopping at the Senate columns.

We face another nomination imminently. There have been discussions as to what our sequence and timing will be. We have shown, with the cooperation of Senator LEAHY and the Senate Democratic leader, Senator REID, as we negotiated this timetable—and we had some angst in the negotiations but we worked in a cooperative way so that on September 29 we have met the timetable which we anticipated, although nobody was bound to it. There could have been objections and there could have been delaying tactics, but Senator REID, Senator LEAHY, and the Judiciary Committee, with Democrats as

well as Republicans, supported that timetable.

It is my hope we will have a nominee who will come forward to replace Justice O'Connor who will be in the mold of Judge Roberts. In a sense, Judge Roberts replaces Chief Justice Rehnquist. Perhaps the ideology is not so important with that replacement, but it is my hope we will have someone who in the mold of Judge Roberts will stand up to the job, looking for the interpretations of due process and equal protection as Judge Roberts did in an expansive way, and looking for societal interests in that broad interpretation.

I am pleased to be a participant in this historic occasion, and again I salute my colleagues on both sides of the aisle for the dignified proceeding and meeting our timetable, in coming forward to this confirmation vote at 11:30 this morning.

The PRESIDING OFFICER (Mr. ENSIGN). Under the previous order, the time from 11 a.m. to 11:15 a.m. will be under the control of the Democratic leader.

Mr. REID. Mr. President, as I announced on this floor last week, I intend to vote against the nomination of Judge John Roberts to be Chief Justice of the United States. In my meetings with John Roberts, I found him to be a very nice person. I like him. I respect his legal skills. I respect much of the work he has done in his career. For example, his advocacy on the environmental side of the Lake Tahoe takings case several years ago was remarkably good. He decided the law did not look too good to him, so he figured the way to win the case was to argue to the Court the facts, and he did that and he won the case. So I admire his legal skills, as I think everyone in this body does. But at the end of the day, I have had many unanswered questions about the nominee, and because of that, I cannot justify a vote confirming him to this lifetime position.

Each one of the 100 Senators applies his or her own standard in carrying out the advice and consent clause of the Constitution. That is a constitutional role that we have. I know that elections have consequences, and I agree that Presidents are entitled to a measure of deference in appointing judicial nominees. After all, the Senate has confirmed well over 200 of President Bush's nominees, some of whom possess a judicial philosophy with which I disagree. But deference to the President can only go so far. Our Founding Fathers gave the Senate the central role in the nominations process, and that role is especially important in placing someone on the Supreme Court.

If confirmed by the Senate, John Roberts will serve as Chief Justice of the United States and leader of the third branch of the Federal Government for decades to come. He will possess enormous legal authority. In my view, we should only vote to confirm this nominee if he has persuaded us he will protect the freedoms that all Americans hold dear. This is a close question for me, but I will resolve my doubts in favor of the American people, whose rights would be in jeopardy if John Roberts turns out to be the wrong person for the job.

As I have indicated, I was impressed with Judge Roberts the first time I met him. This was a day or two after he was nominated. I knew that he had been a thoughtful member of the DC Circuit Court of Appeals for the last 2 years. But several factors caused me to reassess my initial view. Most notably, I was disturbed by memos that surfaced from John Roberts' years of service in the Reagan administration. These documents raised serious questions about the nominee's approach to the rights of women and civil rights.

In the statement that I gave last week, I gave some specific examples of the memos that concerned me. I also explained that I was prepared to look past these memos if the nominee distanced himself from these views at his Judiciary Committee hearings. He did not. I was so disappointed when he took the disingenuous stance that the views expressed in these memos were merely the views of his client, the Reagan administration. Anyone who has read the memos can see that their author was expressing his own personal views.

When I saw Senator SCHUMER throw him the proverbial softball in these hearings, I waited with anticipation for the answer that I knew would come. This brilliant man, John Roberts, certainly could see what Senator SCHUMER was attempting to do. He was attempting to have John Roberts say: Well, I was younger then. It was a poor choice of words. If I offended anyone, I am sorry. I know it was insensitive. I could have made the same point in a different manner.

But he didn't say that. For example, the softball that was thrown to him by Senator SCHUMER was words to the effect: In a memo you wrote that President Reagan was going to have a meeting in just a short period of time with some illegal amigos, Hispanics—that was insensitive. It was unwise. And it was wrong. And he should have acknowledged that and he did not.

That affected me. It gave me an insight into who John Roberts is.

My concerns about these Reagan-era memos were heightened when the White House rejected a reasonable request by the committee Democrats for documents written by the nominee when he served as Deputy Solicitor General in the first Bush administration. The claim of attorney-client privilege to shield these documents was unpersuasive. This was stonewalling, plain and simple.

In the absence of these documents, it was equally important for the nominee to answer fully questions from the committee members at his hearing. He didn't do that. Of course a judicial nominee should decline to answer questions regarding specific cases that will come before the Court to which the witness has been nominated. We all know that. But Judge Roberts refused to answer many questions certainly more remote than that, including questions seeking his views of long-settled precedents.

Finally, I was swayed by the testimony of civil rights and women's rights leaders against this confirmation. As we proceed through our public life, we have an opportunity to meet lots of people. That is one of the pluses of this wonderful job, the great honor that the people of the State of Nevada have bestowed upon me. During my public service, I have had the opportunity to serve in Congress with some people whom I consider heroes. One of those is a man by the name of JOHN LEWIS. JOHN LEWIS was part of the civil rights movement, and he has scars to show his involvement in the civil rights movement. Any time they show films of the beatings that took place in the Southern part of the United States of people trying to change America, John Lewis is one of those people you will see on the ground being kicked and stomped on while punches are thrown. He still has those scars.

But those scars are on the outside, not the inside. This man is one of the most kind, gentle people I have ever met, someone who is very sensitive to the civil rights we all enjoy. Congressman JOHN LEWIS is an icon and, as I have said, a personal hero of mine. When JOHN LEWIS says that John Roberts was on the wrong side of history and should not be confirmed, his view carries great weight with me.

So I weigh John Roberts' fine résumé and his 2 years of mainstream judicial service against the Reagan-era memos, the nominee's unsatisfactory testimony, and the administrations's failure to produce relevant documents. I have to reluctantly conclude the scales tipped against confirmation.

Some have accused Democrats of treating this nominee unfairly. Nothing could be further from the truth. There are volumes written about the uncivil atmosphere in Washington, about how things could be better in the Senate. All those people who write that, let them take a look at how this proceeding transpired in the Senate and I hope on the face of America. It was not easy to get to this point. In 20 minutes, we will have a vote on the Chief Justice of the United States. But people should understand that the Judiciary Committee conducted itself in an exemplary fashion, led by ARLEN SPECTER and PAT LEAHY. No better example in Government could be shown than to look at how they conducted the hearings and the full breadth of everything that took place with this confirmation process. It is exemplary.

People have strong feelings, not only in that committee but in the Senate, and there were many opportunities for mischief. But because of the strong leadership of two distinguished Senators—one from the tiny State of

Vermont and one from the very heavily populated State of Pennsylvania—it all worked out. They trusted each other and the members of the Judiciary Committee trusted them, and after a few weeks of this process, which went on for months, by the way, every Member of the Senate saw that this was going to be a civil proceeding, and it was. It has been. I commend and applaud the dignity of these hearings.

Each Democrat considered the nomination on the merits and approached the vote as a matter of conscience. Democrats were not told how to vote, not by me, not by the chairman of the Judiciary Committee, not by the senior Member of the Senate, Senator BYRD. They will vote their conscience.

Democrats have not employed any procedural tactics that we might have otherwise considered. As Senator SPECTER and Senator LEAHY have said to the President himself—I have been there when they said it—we want the next nominee not to be extreme.

The fact that some Democrats will vote no on this nomination is hardly unfair. We are simply doing our duty under the Constitution that we hold so dearly. The Constitution—that is what this is all about, this little document. We have a role, a constitutional role, of giving advice and consent to the President. The consent will come in a few minutes. The advice has been long in coming.

In the fullness of time, John Roberts may well prove to be a fine Supreme Court Justice. I hope that he is. If so, I will happily admit that I was wrong in voting against his confirmation. But I have reluctantly concluded that this nominee has not satisfied the high burden that would justify my voting for his confirmation based on the current record.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. I wonder if the senior Senator from Nevada will yield to me. I wish to make a comment. I know he still has a couple of minutes left.

Mr. REID. The time is yours.

Mr. LEAHY. Mr. President, I want to compliment the senior Senator from Nevada, the Democratic leader. I supported him for assistant leader, and I supported him for leader, and I have never regretted, nor doubted, that support.

I have been here 31 years. He is a fine leader. I have been here for 12 nominations to the Supreme Court, 2 of them for Chief Justice. I am one of only a handful of Senators who can say that. I know, throughout all this process, the Senator from Nevada, Senator REID, dealt with us evenhandedly and fairly. Never at any time did he try to twist any arms on this side of the aisle. Throughout it all he said: Keep your powder dry—his expression which I picked up—until the hearings were over. That is the sort of thing we should do. Hear the evidence first. Hear the evidence, and then reach a verdict. I am extremely proud of him.

We have reached different conclusions on this, but we remain friends and respectful to each other throughout. His praise of Senator SPECTER and of myself means so much to me. But I think, more importantly, what he has done means so much to the Senate. Senator REID has worked with both sides of the aisle to make sure that we were going to have a hearing for the Chief Justice of the United States that reflected what was best in this country.

When I finished my speech, I spoke directly to Judge John Roberts, and I will do so again: Please, remember there are 280 million Americans. Be a Chief Justice for all of us.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

The majority leader is recognized.

Mr. FRIST. Mr. President, the duty before us today to provide advice and consent on John Roberts' nomination as Chief Justice of the United States is perhaps the most significant responsibility we will undertake as elected leaders. It is a duty decreed to us by the Constitution and an obligation the American people have entrusted us to fulfill.

In this Chamber today, we are seated at the drafting table of history. We are prepared to write a new chapter in the history of our Nation. Our words and our actions will be judged not only by the American people today but by the eyes of history forever.

As we prepare to pick up the pen to write these words that will shape the course of our highest Court, I ask that we think hard about the words we will write. I ask that we think hard about the question we must answer: Is Judge Roberts qualified to lead the highest Court in the land? I believe the answer to this question is yes.

Judge Roberts possesses the qualities Americans expect in the Chief Justice of its highest Court and the qualifications that America deserves. Without a doubt, he is the brightest of the bright. His understanding of constitutional law is unquestionable. Judge Roberts has proven through his tenure on the District of Columbia Circuit Court of Appeals and in his testimony before the Judiciary Committee that he is committed to upholding the rule of law and the Constitution. He has demonstrated that he won't let personal opinions sway his fairminded approach. He will check political views at the door to the Court, for he respects the role of the judiciary and recognizes the importance of separation of powers.

As he so eloquently stated before the committee: ''Judges are like umpires. Umpires don't make the rules, they apply them . . . They make sure everybody plays by the rules, but it is a limited role.''

Judge Roberts will be a great umpire on the High Court. He will be fair and openminded. He will stand on principle and lead by example. He will be respectful of the judicial colleagues and litigants who come before the Court. And above all, he will be a faithful steward of the Constitution.

This is what we know about John Roberts: In the last few weeks, he has provided us information and answered our questions. John Roberts has fulfilled his obligation to the Senate.

Now it is time to fulfill our obligation to the American people. It is time for each Member to answer, Is John Roberts the right person for the job of Chief Justice of the United States? It is my belief that the answer is yes. It is my belief that the chapter we write should begin with his name. It is my hope that today Members will join me in writing the words; that Members will join me in writing ''yes'' for John Roberts' nomination as our Nation's 17th Chief Justice.

I ask for the yeas and nays.

The PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of John G. Roberts, Jr., of Maryland, to be the Chief Justice of the United States?

Under Resolution 480, the standing orders of the Senate, during the yea and nay votes of the Senate, each Senator shall vote from the assigned desk of the Senator.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 78, nays 22, as follows:

[Rollcall Vote No. 245 Ex.]

YEAS—78

Alexander	Dole	Martinez
Allard	Domenici	McCain
Allen	Dorgan	McConnell
Baucus	Ensign	Murkowski
Bennett	Enzi	Murray
Bingaman	Feingold	Nelson (FL)
Bond	Frist	Nelson (NE)
Brownback	Graham	Pryor
Bunning	Grassley	Roberts
Burns	Gregg	Rockefeller
Burr	Hagel	Salazar
Byrd	Hatch	Santorum
Carper	Hutchison	Sessions
Chafee	Inhofe	Shelby
Chambliss	Isakson	Smith
Coburn	Jeffords	Snowe
Cochran	Johnson	Specter
Coleman	Kohl	Stevens
Collins	Kyl	Sununu
Conrad	Landrieu	Talent
Cornyn	Leahy	Thomas
Craig	Levin	Thune
Crapo	Lieberman	Vitter
DeMint	Lincoln	Voinovich
DeWine	Lott	Warner
Dodd	Lugar	Wyden

NAYS—22

Akaka	Corzine	Kennedy
Bayh	Dayton	Kerry
Biden	Durbin	Lautenberg
Boxer	Feinstein	Mikulski
Cantwell	Harkin	
Clinton	Inouye	

Obama	Reid	Schumer
Reed	Sarbanes	Stabenow

The nomination was confirmed.

Mr. FRIST. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. FRIST. I ask that the President be immediately notified of the Senate's action.

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

LEGISLATIVE SESSION

Mr. FRIST. I ask that the Senate resume legislative session.

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

Mr. FRIST. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

IRAQ

Mr. FEINGOLD. Mr. President, I rise once again today to comment on the deeply disturbing consequences of the President's misguided policies in Iraq. I have spoken before about my grave concern that the administration's Iraq policies are actually strengthening the hand of our enemies, fueling the insurgency's recruitment of foreign fighters, and unifying elements of the insurgency that might otherwise turn on each other.

But today I want to focus on a different and equally alarming issue, which is that the Bush administration's policies in Iraq are making America weaker. None of us should stand by and allow this to continue.

It is shocking to me this Senate has not found the time and the energy to take up the Defense authorization bill and give that bill the full debate and attention it deserves. Our men and women in uniform and our military families continue to make real sacrifices every day in service to this country. They perform their duties with skill and honor, sometimes in the most difficult of circumstances. But the Senate has not performed its duties, and the state of the U.S. military desperately needs our attention.

The administration's policies in Iraq are breaking the U.S. Army. As soldiers confront the prospect of a third tour in the extremely difficult theater of Iraq, it would be understandable if they began to wonder why all of the sacrifice undertaken by our country in wartime seems to be falling on their shoulders. It would be understandable if they and their brothers and sisters in the Marine Corps began to feel some skepticism about whether essential resources, such as adequately armored vehicles, will be there when they need them. It would be understandable if they came to greet information about deployment schedules with cynicism because reliable information has been hard to come by for our military families in recent years. And it would be understandable if they asked themselves whether their numbers will be great enough—great enough—to hold hard-won territory, and whether properly vetted translators will be available to help them distinguish friend from foe.

At some point, the sense of solidarity and commitment that helps maintain strong retention rates can give way to a sense of frustration with the status quo. I fear we may be very close to that tipping point today. It is possible we may not see the men and women of the Army continue to volunteer for more of the same. It is not reasonable to expect that current retention problems will improve rather than worsen. We should not bet our national security on that kind of wishful thinking.

Make no mistake, our military readiness is already suffering. According to a recent RAND study, the Army has been stretched so thin that active-duty soldiers are now spending 1 of every 2 years abroad, leaving little of the Army left in any appropriate condition to respond to crises that may emerge elsewhere in the world. In an era in which we confront a globally networked enemy, and at a time when nuclear weapons proliferation is an urgent threat, continuing on our present course is irresponsible at best.

We are not just wearing out the troops; we are also wearing out equipment much faster than it is being replaced or refurbished. Days ago, the chief of the National Guard, GEN H. Steven Blum, told a group of Senate staffers that the National Guard had approximately 75 percent of the equipment it needed on 9/11, 2001. Today, the National Guard has only 34 percent of the equipment it needs. The response to Hurricane Katrina exposed some of the dangerous gaps in the Guard's communications systems.

What we are asking of the Army is not sustainable, and the burden and the toll it is taking on our military families is unacceptable. This cannot go on.

Many of my colleagues, often led by Senator REED of Rhode Island, have taken stock of where we stand and have joined to support efforts to expand the size of our standing Army. But this effort, which I support, is a solution for the long term, because it depends on new recruits to address our problems. We cannot suddenly increase the numbers of experienced soldiers so essential to providing leadership in the field. It takes years to grow a new crop of such leaders. But the annual resignation rate of Army lieutenants and captains rose last year to its highest rate since the attacks of September 11, 2001. We are heading toward crisis right now.

Growing the all-volunteer Army can only happen if qualified new recruits sign up for duty. But all indications suggest that at the end of this month the Army will fall thousands short—thousands short—of its annual recruiting goal. Barring some sudden and dramatic change, the Army National Guard and Army Reserve too will miss their annual targets by about 20 percent, missing their targets this year by 20 percent in terms of recruitment. GEN Peter Schoomaker, the Army's Chief of Staff, told Congress recently that 2006 ''may be the toughest recruiting environment ever.''

Too often, too many of us are reluctant to criticize the administration's policies in Iraq for fear that anything other than staying the course set by the President will somehow appear weak. But the President's course is misguided, and it is doing grave damage to our extraordinarily professional and globally admired all-volunteer U.S. Army. To stand by—to stand by—while this damage is done is not patriotic. It is not supportive. It is not tough on terrorism, nor is it strong on national security. Because I am proud of our men and women in uniform, and because I am committed to working with all of my colleagues to make this country more secure, I am convinced we must change our course.

As some of my colleagues know, I have introduced a resolution calling for the President to provide a public report clarifying the mission the United States military is being asked to accomplish in Iraq, and laying out a plan and a timeframe for accomplishing that mission and subsequently bringing our troops home. It is in our interest to provide some clarity about our intentions and restore confidence at home and abroad that U.S. troops will not be in Iraq indefinitely. I have tried to jump-start this discussion by proposing a date for U.S. troop withdrawal: December 31, 2006.

We need to start working with a realistic set of plans and benchmarks if we are to gain control of our Iraq policy, instead of simply letting it dominate our security strategy and drain vital resources for an unlimited amount of time.

So this brings me to another facet of this administration's misguided approach to Iraq, another front on which our great country is growing weaker rather than stronger as a result of the administration's policy choices, and that is the tremendously serious fiscal consequences of the President's decision to put the entire Iraq war on our national tab. How much longer can the elected representatives of the American people in this Congress allow the President to rack up over $1 billion a week in new debts? This war is draining, by one estimate, $5.6 billion every month from our economy—funds that might be used to help the victims of Hurricane Katrina recover, or to help

address the skyrocketing health care costs facing businesses and families, or to help pay down the enormous debt this Government has already piled up.

Not only are we weakening our economy today, this costly war is undermining our Nation's economic future because none of that considerable expenditure has been offset in the budget by cuts in spending elsewhere or by revenue increases. All of it—every penny—has been added to the already massive debt that will be paid by future generations of Americans.

For years now, this administration has refused to budget for the cost of our ongoing operations in Iraq that can be predicted, and has refused to make the hard choices that would be required to cover those costs. Instead—instead—the President apparently prefers to leave those tough calls to our children.

Mrs. BOXER. Mr. President, will the Senator yield for a quick question?

Mr. FEINGOLD. Could I do that in 2 minutes?

Mrs. BOXER. Sure.

Mr. FEINGOLD. I want to finish my statement.

Mr. President, in effect, we are asking future generations to pay for this war, and they will pay for it in the form of higher taxes or fewer Government benefits. They stand to inherit a weakened America, one so compromised by debt and economic crisis that the promise of opportunity for all has faded. And there is no end in sight.

In addition to that, the war will leave other costly legacies. Here again, it is the members of the military and their families who will endure the most severe costs. But even if the war ended tomorrow, the Nation will continue to pay the price for decades to come.

Linda Bilmes of the Kennedy School of Government at Harvard estimates that over the next 45 years, the health care, disability, and other benefits due our Iraq war veterans will cost $315 billion. We owe our brave troops the services and benefits they are due. We owe it to them and to their children and to their grandchildren to guide the course of this country and this economy to ensure that we are in a position to deliver for our veterans and for all Americans.

I cannot support an Iraq policy that makes our enemies stronger and our country weaker, and that is why I will not support staying the course the President has set. If Iraq were truly the solution to our national security challenges, this gamble with the future of our military and with our economy—who knows?—might make sense, if that were the case. If Iraq, rather than such strategically more significant countries as Saudi Arabia and Pakistan, were at the heart of the global fight against violent Islamic terrorism, this might make some sense. If it were true that fighting insurgents in Baghdad meant we would not have to fight them elsewhere, all the costs of this policy might well make sense.

But these things are not true. Iraq is not—is not—the ''silver bullet'' in the fight against global terrorist networks. As I have argued in some detail, it is quite possible that the administration's policies in Iraq are actually strengthening the terrorists by helping them to recruit new fighters from around the world, giving those jihadists on-the-ground training in terrorism, and building new, transnational networks among our enemies. Meanwhile, the costs of staying this course indefinitely, the consequences of weakening America's military and America's economy, loom more ominously before us with each passing week. There is no leadership in simply hoping for the best. We must insist on an Iraq policy that makes sense.

I yield to the Senator from California for a question.

Mrs. BOXER. Mr. President, I thank the Senator from Wisconsin, Mr. FEINGOLD. I am very proud to be on his resolution which finally would hold this President and his administration accountable for the disastrous situation we find ourselves in in Iraq, a situation that has led to now nearly 2,000 dead, countless wounded, young people and not so young without limbs, without their full brain capacity. It is a stunning failure.

Finally, in the Senate, we have a resolution that simply says to this administration: Do tell us, what is your plan? When are we getting out? Give us the milestones. And, what is the mission?

I have a couple of questions I wanted to ask my friend. As my friend was talking, I wrote down the various missions that we have heard from the administration that we were supposed to have in Iraq. The first one was weapons of mass destruction. Remember when Secretary Rumsfeld said: I know where they are; I could point to where they are. No, there weren't any. Then they said: We have to get Saddam. He is a tyrant. We all agreed, he is a tyrant. Saddam is gone for all intents and purposes. That was the second mission. Then they said: We are going to rebuild Iraq, a disastrous situation over which Secretary Rice is in charge. I haven't seen much rebuilding. I have seen a lot of no-bid contracts. Then they said: We have to have an election. That is the next mission. They had an election. After that, everything fell apart. Then they said: We need to bring security. We are going to train the Iraqi forces. The Senator from Wisconsin and I agree with that. We want to see them trained—it seems to be taking forever—especially when we have the President saying: We will stay there as long as it takes. What kind of message is that to the Iraqis?

We had a briefing yesterday. We can't discuss the details of that briefing, but it seemed to me there were yet other missions laid out.

I ask my friend, does he see the situation the way I do: An ever-changing mission in Iraq, setting the bar higher and higher with no end in sight is where we are at the present time?

Mr. FEINGOLD. I thank the Senator from California. She accurately described the way in which we got in this situation. I called it on the Senate floor, in October 2002, shifting justifications. The one we began with, the one that sold the American people, was that somehow there was a connection between Osama bin Laden and Saddam Hussein. Most of the American people apparently believed it because the President told them so at the time of the invasion. That would have been the ultimate justification because everybody assumed the Iraq invasion had something to do with that.

Ever since that myth has been exploded, the administration has been trying any way, scampering any way they can to come up with other justifications—the obviously failed attempt to suggest the imminent threat of weapons of mass destruction from Saddam Hussein, and then 6 to 7 months later, a year later, the President suddenly announces what he was really trying to do was to start a domino effect. We were going to fight a war that was going to create a domino effect of democracy around the world, which is a lovely ideal and notion, but nobody thought that was the justification when we voted here. I am guessing that it wouldn't have gotten one single vote if Members thought we were buying into that kind of project.

The Senator is right, not only with regard to how we got into the war but also with regard to how this administration is conducting the war. It is a mixture of so many inconsistent justifications that it doesn't make sense.

I had 18 town meetings in northern and central Wisconsin, some of them at very conservative areas, during the August recess. These were places where most of the people supported the Iraq war. They came to my town meetings and said: Why is this happening? Why were we given false pretenses to get into the war, and why is it that there isn't a serious plan to finish the war? Because of the failure of the administration to handle this war in any sensible way, the very people who supported the war are starting to say: Let's just leave.

So the President presents us with a false choice. He says: We have to stay the course. And if you don't believe in staying the course, then you must be for cutting and running. He is causing the movement in America to simply leave Iraq because of his failure of leadership.

What our resolution does—and I thank the Senator from California for her cosponsorship—is modest. It just says: Mr. President, within 30 days, could you give us a written plan that lays out the best way you want, without being bound to it, what is the plan, what is the mission, what are the benchmarks we have to achieve, by what time do you think we can achieve those benchmarks, and at what point and through what stages do you think we can begin and then complete the withdrawal of our American troops.

I say to my friend through the Chair, I think her comments and her question are right on the point.

I yield for another question.

Mrs. BOXER. Mr. President, I wish to thank my colleague for correcting me on the point that I missed that, yes, out of the five or six missions I named, I left out the very important one that he corrected me on, which is that there was a link between Saddam and al-Qaida and, in fact, there was al-Qaida all over Iraq.

The Senator and I sit on the Foreign Relations Committee. I think he remembers this document that I put into the RECORD, because I remember he very much wanted it, which showed that about a month after September 11 when we were so viciously attacked by bin Laden—who, by the way, we were going to get dead or alive, and we need to do that—the fact is, the State Department in its own document said there wasn't one al-Qaida cell, not one, in Iraq. There were more cells in America than in Iraq, according to our own State Department. We have put that in the RECORD.

Now, of course, it is a haven for terrorism because of this failed policy, this disastrous policy, this policy that is utter chaos with no end in sight, unless the Senate and the administration look at what my friend put forward, which is finally saying to the President: You need a mission, a mission that can be accomplished, and we need to end this in an orderly fashion.

I wanted to ask my friend one more point, and then I will leave the Chamber. That is about the National Guard. Right now, there are fires raging in my home State, sadly. We have them every year at this time. It is heartwrenching. We need all the help we can get. We always get all the help we ask for. We have never had a problem. The National Guard is called out when it gets really out of control.

Is my friend aware that the best equipment that the National Guard had at its disposal is in Iraq, not here at home? And when the people were crying out for help, not only were so many of the National Guard over in Iraq, my understanding is—and my friend can correct me—approximately 40 percent of our troops over there are National Guard. That is my information. Not only that, the best equipment of the National Guard is over in Iraq.

Don't our people deserve better than that so when they experience disasters, our National Guard can respond?

Mr. FEINGOLD. Mr. President, I thank the Senator from California. The Senator has very nicely returned to the main point of what I was trying to illustrate today. We certainly agree on the problems of how we got into this war and our very troubled feelings about that and also the myriad of problems with the way the war is being conducted. But what the Senator from California has done is returned us to the main point I wanted to make today: This strategy is weakening America. I am not talking about some general sense. We are talking specifically about our military. We are talking specifically about our Army. We are talking specifically about our National Guard.

Yes, we know about this in Wisconsin. We have some 10,000 Guard and Reserve. The vast majority of them have been called up for action overseas. There are serious concerns that have been reported—which, by the way, were beginning prior to 9/11—about equipment. It is to the point where my National Guard people ask me to ask the Secretary of Defense, Are we going to replenish these things for our National Guard? What is the guarantee? I received a rather weak answer, as I recall. The equipment needs are only at 34 percent for the National Guard—a dramatic decline in the last 4 years. Since 9/11, we have allowed the situation to become much worse in terms of equipment for our National Guard, whether it be for use in a foreign conflict or whether it be used to handle a terrorist situation domestically or whether it be used to help deal with one of the natural disasters that obviously can and do occur.

I appreciate the Senator heightening this point. This isn't about opposing a war. This is about mistakes being made by an administration in terms of forgetting the main point of fighting terrorism and forgetting about the need for our military to be strong both internationally and to be able to help, as the National Guard must, domestically.

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. STEVENS. 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. STEVENS. Mr. President, I ask unanimous consent that I be able to speak as in morning business. Is that proper at this time?

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

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2006

Mr. STEVENS. Mr. President, I am disturbed that we are delayed in taking up the Defense appropriations bill for 2006. It has been a problem. We have to wait for the authorization bill to come before the Senate. I have asked the leader for permission to take up this bill, along with my colleague from Hawaii, and bring the Defense appropriations bill for 2006 before the Senate today. I understand that has been objected to on some procedural ground.

It is my intention to make the statement I would make if the bill were before us. I will later ask that it be printed in the RECORD when the bill is laid before us.

I think the Senate should be using this time. We had intended to have votes today and tomorrow. We will not have votes Monday and Tuesday, but the bill will be before the Senate Monday and Tuesday.

We tried our best to work with the Armed Services Committee on their authorization bill, and we have a dispute between our subcommittee and the Intelligence Committee. That dispute pertains to a matter that should not be discussed on the floor. It is one we thought we had worked out by virtue of a compromise provision we put into this Defense appropriations bill, and I hope the members of the Intelligence Committee will recognize that as such.

Mr. HARKIN. 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. HARKIN. Mr. President, I ask unanimous consent to speak up to 10 minutes as if in morning business.

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

AVIAN FLU PANDEMIC

Mr. HARKIN. I thank the Presiding Officer.

Mr. President, I come to the floor at this time to discuss a matter of grave national security. If recent Hurricane Katrina and Hurricane Rita have taught us anything, it is that we have to do a dramatically better job of preparing for diseases before they strike so we are not left picking up the pieces afterward.

I am very gravely concerned that the United States is totally unprepared for an outbreak—and a subsequent international pandemic—of avian flu. We have had two disasters in the last 4 years—9/11 and Katrina followed by Rita. And the Federal Government was totally unprepared for both, despite clear warnings. Similarly, we have been warned in no uncertain terms about avian flu, but our preparations so far have been grossly inadequate.

I think I got my first briefing on this about a year ago from CDC in Atlanta. I have been following it closely in our Labor, Health and Human Services, Education and Related Agencies Appropriations Subcommittee.

As it has unfolded over the last several months, it is clear that it is not a question of if avian flu is going to reach us, it is a question of when—not if, just when.

As many of my colleagues know, avian flu—or as it is called in the technical jargon, H5N1—has been known to pass first in bird species. It was passed from bird to bird, chicken to chicken, and that type of thing. It has then gotten into migratory waterfowl, which has spread from countries such as Thailand, Cambodia, Vietnam, and Hong Kong. And they have now found it as far away as Kazakhstan and as far north as the northern regions of Russia. It is just a matter of time before it gets here.

We have known this passed from bird to bird. We now know it has passed from birds to mammals, certain types of cats, particular tigers. We also know now it has passed from birds to humans. We have some cases. Now we have a few cases that have been reported of passing from human to human.

So the virus is mutating. It is getting smarter. It knows that it has now gone from bird to bird, bird to mammal, and bird to human, and now from human to human.

Experts in virology at the Department of Health and Human Services and others tell us that it is only a matter of time until the virus mutates from human to human to human, and then it becomes widespread. When that happens, we are in deep trouble.

An outbreak in China, Vietnam or Cambodia could trigger, within a couple of weeks' time, a worldwide outbreak, facilitated by air traffic and the mass movement of people across borders. And the data so far shows that of the 150 cases of the human avian flu—H5N1—that we know of, 54 have died. Almost 50 percent of the people infected have died.

This is a virulent form of the flu virus. It is a nightmare scenario—a kind of 21st century Black Death.

It is not hard to picture that could happen within a few months' period of time.

Again, as I say, many experts say it is not a matter of if, it is when. We have to ask tough questions.

Where do our preparedness efforts stand? What could we be doing better?

At some future time—I have it on charts, but I didn't have time to put it together—I will have charts to show what happened with the last great flu pandemic that hit the world in 1918 and 1919. Understand this: 500 million people were infected worldwide. This was almost 100 years ago—20 million to 40 million deaths worldwide. There were over 500 deaths in the United States.

In one month alone, October 1918, 196 people died in the United States from this influenza.

I have been told by experts that this H5N1 and how it manifests itself mirrors the influenza of 1918 and 1919.

Where do our efforts stand, and what can we be doing better?

First, where do we stand?

The Centers for Disease Control, under the great leadership of Dr. Gerberding, is doing a fine job working in cooperation with the World Health Organization and governments in affected regions to detect the disease and to help to stop its spread. Surveillance can alert us to an outbreak and governments can then take measures to isolate the disease so that widespread infection does not occur.

Again, we know how to do this. The CDC knows how to do this. They had great success with surveillance, isolation, and quarantine during the SARS outbreak, and they managed to control its spread. We never got SARS in the United States because we were able to isolate it and quarantine it in other countries.

We also learned valuable lessons from this SARS episode. We need to be doing a better job of surveillance. We have had some problems with some countries which do not have a very good public health infrastructure. They may not report illnesses and deaths as do we or some other places.

But we have CDC personnel on the ground in these countries. They know what to do. But they are woefully inadequate in funds. They don't have the funds needed to conduct adequate surveillance in these countries such as Cambodia, Thailand, Vietnam, Russia, and places such as that. They need some more support for surveillance. I will get into that in a little bit.

In order for us to get the necessary vaccines for this drug, it is going to take a few months.

The best thing we can be about in the initial stages is surveillance, finding out where it is outbreaking, control it, isolate it, and quarantine it.

As I said, the Centers for Disease Control and Prevention know how do that. There are other things we can be doing better. The World Health Organization is encouraging the purchase of antiviruses, medicines that help mitigate the infectious disease once you have already gotten it. Unfortunately, the United States only has enough antiviral medication for 1 percent of our population. That is not enough. We need to invest approximately $3 billion to build an adequate stockpile of antiviral medications. That would get us enough for about 50 percent of the population.

The experts tell us that we ought to be prepared for that kind of an infectious rate in the United States; that it could be up to 50 percent or more of our people in the United States affected by this—140 million people.

If we stay where we are, and we only have 1 percent or 10 percent, then you raise the question: Who gets it? How is it distributed?

We need to reassure our people that we have enough of these antivirals. These antivirals have a long shelf life—7 to 10 years, and maybe even more.

It is not as if we are buying something that is going to disintegrate right away. These antivirals have a long shelf life.

In addition, the President's budget cut $120 million from State and public health agencies. These are the agencies that will be on the front lines of both surveillance and disease prevention should an outbreak occur. We have to restore this funding. But that is not adequate.

In the future, our public health infrastructure would be stretched to the limits by an outbreak of avian influenza.

We need to invest in more public health professionals, epidemiologists, physicians, laboratory technicians, and others.

As I said, if we have an outbreak and it gets to the United States, the first thing we want to do is have good surveillance, isolation, and quarantine. That costs money.

Lastly, we also must take measures to increase our Nation's vaccine capacity. Currently, there is only one flu vaccine manufacturing facility in the United States.

I have wondered about that. Why is that so?

In meetings with the drug industry and others, I have learned that vaccine production is not very profitable compared to other types of drug development and manufacturing. Plus, they do not know if there is going to be a market for it.

This is a classic point of market failure—where the market really can't respond to a future need.

This is where the Government must step in to provide incentives for more manufacturers to build facilities in the United States.

Many will remember what happened during the last flu season, when overseas manufacturing facilities were shut down for safety reasons. Because we had no manufacturing capacity domestically, we were stuck. We should learn from this lesson. We cannot afford this problem when faced with the threat of avian influenza. So the Federal Government can and must do more to improve domestic vaccine capacity.

What does that mean? That means we are going to have to have some kind of guarantee that if you make this vaccine, we guarantee we will buy so many millions of doses of this vaccine.

Why is that important?

For this strain of the avian flu—in technological terms, H5N1—the virus that we have isolated in people who have contracted it in Thailand, Cambodia, Vietnam, and Hong Kong, the National Institutes of Health and Infectious Disease, under Dr. Fauci, has been developing a vaccine. The initial reports that came out in July were that this vaccine has great promise. However, what we don't know is will the virus that mutates and comes to this country be H5N1 or will it be H5N3 or H5N5? We don't know. Therefore, if a manufacturer were to manufacture all these doses of vaccine for H5N1, that may not work for the kind of viruses we might get later on. I am told it might work for some; it might slow it down a little bit.

That is why we need to have incentives for vaccine manufacturers in this country so they know if they manufacture the vaccine, it will be purchased. We may not use it all. We may have to develop new vaccines later on down the road. But at least we will have these vaccines in case H5N1 is the virus that gets here because we know that virus. That is why we have to move and we have to move right now. We do not have much time to invest in preparation for avian flu.

Some may ask, Why wasn't this done before? Perhaps we should have done

something better before. But after Katrina, maybe a lot of our eyes were opened that we were not prepared and that we have to do something different from what we are doing. Also, the virulence and the spread of avian flu has taken new leaps in the last several months that we had hoped might not happen. So we are faced right now with an urgent situation. We need to start right now.

Later on, I will be offering an amendment to this bill that will basically do the following things: One, double our global surveillance of the avian flu through the Centers for Disease Control to identify and contain as soon as possible. In my conversation with CDC and others, this figure is about $33 million to adequately do the surveillance.

Second, to restore the budget cuts to local and State public health departments and emergency preparedness activities to help communities prepare to recognize, treat, and quarantine the avian flu virus if it reaches our country. The President's budget cut $122 million from grants to State and local public health departments for emergency preparedness activities. These were grants that were first funded under our Subcommittee on Labor, Health, and Human Services in 2001 in response to the September 11 attacks.

Again, as best as we could determine in talking to those who administer programs, in order to get it up to the point where they would be prepared for an avian flu outbreak, it is about $600 million nationally.

Next, we need to increase the stockpile of antivirals. I mentioned earlier the World Health Organization recommended that each company stockpile enough Tamiflu—that is a brand name made by Roche Pharmaceuticals in Switzerland. They have the patent which has been very effective. The World Health Organization recommended each country stockpile enough for 40 percent of their population.

As I mentioned, right now we have enough for about 1 percent. Other countries have heeded this warning and have gotten in line to purchase this. The United States, as I said, has 2 million doses on hand, enough for 1 percent of the population.

We need additional resources. We need to build this up to serve at least 50 percent of our population. This comes at about $20 per dose as it is a multidose vaccine. It is not just one vaccine, you have to take a couple, three doses but only if you get infected. The tab for this is about $3 billion.

Why, again, do we need to do that? Because we do not have any company making it in this country. Roche has the patent. I want to be respectful of patent rights, but other companies in America could, under patent law, make an agreement with Roche, for example, to manufacture it under their patent. Again, they are not going to do it if there is no buyer out there. Who is buying it? If we are to have enough of a stockpile to protect 50 percent of our population, we are going to need to come up with the money right now to guarantee a buyer out there to get more antivirals manufactured in a hurry.

Consider the nightmare scenario if next year, God forbid, avian flu does mutate, it does reach the United States, and we only have enough doses for a million or 2 million people? Who will get it? How will it be distributed?

The next part of the amendment builds up and strengthens our vaccine infrastructure. We only have one manufacturer of flu vaccine in the United States, and they do not have the capacity to rapidly ramp up and make enough vaccine for what we need. In the event of a pandemic, the United States would have to rely on imported vaccines which countries may be unwilling to export to us; They will want it for their own people.

Again, the estimate to get a guaranteed order out for the vaccines would be about $125 million. To provide new resources for outreach educational efforts to health providers in the public, the estimate is $75 million.

What this all adds up to, to be prepared for an outbreak of avian flu, is going to require somewhere around $4 billion, a little bit less than $4 billion. That is a big chunk of change. I remind my colleagues that is less than what we spend in Iraq in 1 month in order to start reassuring the people of this country that we are going to do whatever is necessary to respond to this threat that is looming on the horizon.

I don't have my charts. I will have some later that will demonstrate the kinds of deaths we can expect in this country. When we looked at the flu epidemic of 1918 and 1919, there were about 500,000 deaths in the United States, 20 to 40 million deaths worldwide. We are looking at the possibility in the United States of deaths that can range anywhere from 100,000 up to 2 million, anywhere in that range. Hospitalizations could go anywhere from 300,000 to 10 million. Illnesses—we do not really know, but it could go from 20 to 30 to 40 million up to 100 million or more. That is the kind of pandemic we are looking at.

When I first had my briefing on this at CDC last year, it was perhaps hoped that this avian flu would not mutate as rapidly as it has. But it has. So now we are in a situation of waiting until that next shoe drops when we find it has gone from a human to a human to a human. When that happens, we have to be able to react immediately. It is almost the midnight hour right now.

I hope it never hits, obviously; but since the experts say it is not a matter of if but is only a matter of when because this is a virulent virus, I hope it is put off long enough so we can get the vaccines made, buy the antiviral, and put in place the surveillance and quarantine that we need so that when it does happen—because we are assured by the experts that it will—we can respond, we can quarantine, we can isolate, and if it starts to spread we can give the people who are infected the antivirus they need and we can vaccinate other people so they do not get it.

I am hopeful we can reach some agreement on an amendment to do that. I hope to be offering that sometime later. It is being worked on right now. I hope we can find the money to do this. This is an emergency basis because I think this is an emergency basis. We passed an emergency to respond to Katrina; no one objected to that. We passed emergencies to respond to September 11; no one objected to that. I am tired of looking in the rearview mirror. I don't want to have us looking in the rearview mirror a couple of years from now when the avian flu has struck. It is time to look ahead. That is what this is geared to do, start putting these things in place.

Keep in mind, it is less than 1 month's expenditure of money in Iraq.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. OBAMA. I am happy to defer to Senator STEVENS if he has something he would like to say.

Mr. STEVENS. We are still in morning business, are we?

The PRESIDING OFFICER. We are.

Mr. STEVENS. I will wait for the Senator's statement.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. OBAMA. Mr. President, I thank the distinguished Senator from Alaska. I will try to be brief.

I just want to offer my strong support for the amendment Senator HARKIN is going to propose and state why I think this is such an important issue.

Let me first say, that I am generally of the view that we should not be tacking on unrelated amendments to the defense bills.

The money in this legislation is badly needed by our men and women in uniform and I do not want to slow this bill down.

But, this amendment dealing with the avian flu pandemic is so important to our public health security—and our national security—so important to the lives of millions of people around the world, that it simply cannot wait. In fact, the situation is so ominous that Dr. Julie Gerberding, the Director of the CDC, said that an avian flu outbreak is ''the most important threat that we are facing [today].''

In light of these developments, I believe it is worth the U.S. Senate spending just a few hours on this critical issue, even if it is not directly related to the underlying legislation.

Over the last few months, we have heard alarming reports from countries all over Asia—Indonesia, China, Vietnam, Thailand—about deaths from the avian flu.

International health experts say that two of the three conditions for an

avian flu pandemic in Southeast Asia already exist. First, a new strain of the virus, called H5N1, has emerged and humans have little or no immunity. Second, this strain has shown that it can jump between species.

The last condition—the ability for the virus to travel efficiently from human to human—has not been met, and it is the only thing preventing a full blown pandemic. Once this virus mutates and can be transmitted from human to human, because of global trade and travel, we will not be able to contain this disease. We learned this lesson from SARS, which took less than 4 months to get from Asia to Canada, where it caused human and economic devastation.

When I started talking about this issue 7 months ago, many people thought that the avian flu was a mild concern, an Asian problem, an unlikely threat to Americans here in the U.S.

As time has progressed, the Nation's top scientists and experts have focused greater attention on the possibilities of an avian flu pandemic, and they have rapidly come to consensus that it is not a matter of if the pandemic will hit but when? It is not a question of whether will people die but how many? And the main question, the question that keeps me awake at night, is whether the United States will be able to deal with this calamity?

From what we have seen with the lack of readiness and dismal response to Hurricane Katrina, I think that all of us would have to conclude that the answer, at this point in time, is no.

Whether we are talking about having adequate surveillance capacities in our State and local health departments, having enough doctors and hospital beds and medical equipment for infected individuals, or having a vaccine or treatment that is guaranteed to work, I don't want to be an alarmist, but here in the U.S., we are in serious trouble.

Several of us here in the Congress—on a bipartisan basis—have taken the first steps needed to address this looming crisis. In April of this year, I introduced the AVIAN Act, S. 969 that would increase our preparedness for avian flu pandemic. Senators LUGAR and DURBIN and several others have cosponsored this act and I thank them for that. We need to move this bill as quickly as possible.

In May, I and Senators LUGAR, MCCONNELL, and LEAHY included $25 million for avian flu activities as part of the Iraq supplemental. Today, this money is helping the World Health Organization to step up its international surveillance and response efforts.

In July, I included an additional $10 million to combat avian flu in the Foreign Operations assistance bill. That bill is currently in conference, and I hope this funding will be retained.

I am also working with Senate Defense authorizers on an amendment to require the DOD report to Congress on its efforts to prepare for pandemic influenza.

This report must address the procurement of vaccines, antivirals and other medicine; the protocols for distributing such vaccines or medicine to high priority populations; and how the DOD intends to work with other agencies, such as HHS and State, to respond to pandemic flu.

Today, with leadership by Senator HARKIN, we are introducing an amendment to the DOD appropriations bill to provide $3.9 billion in emergency funds for avian flu activities. Senator HARKIN has already outlined what this amendment does, so I will not rehash what he has already said.

The bottom line is that this amendment needs to be passed and passed as quickly as possible.

I know that $3.9 billion is a lot of money—especially given our fiscal situation today. But this is one issue on which we cannot be penny-wise and pound-foolish. If we don't invest the money now, this pandemic will hit America harder, more lives will be lost, and we will have to spend significantly more in resources to respond after the fact.

As we learned the hard way after Hurricane Katrina, the failure to prepare for emergencies can have devastating consequences. This nation must not be caught off guard when faced with the prospect of the avian flu. This amendment will help the Federal agencies to prepare the Nation to prevent and respond to avian flu.

America is already behind in recognizing and preparing for a potentially deadly and economically devastating avian flu pandemic that public health experts say is not a matter of if but when. We must face the reality that in this age when you can get on a plane in Bangkok and arrive in Chicago in hours, this is not a problem isolated half a world away but one that could impact us right here at home.

The need is great, and the time to act is way overdue. I urge my colleagues to vote ''yes'' and support this amendment.

To reiterate, Senators LUGAR, MCCONNELL, and LEAHY already worked with me to include $25 million for avian flu activities as part of the Iraq supplemental. I included an additional $10 million to combat avian flu in the foreign operations assistance bill. But as Senator HARKIN noted, we need much more based on the briefing we received from the administration yesterday. We have to move now on this issue. It has to be moved rapidly. We have to build an infrastructure to create vaccines and to purchase enough antiviral drugs. I strongly urge that on a bipartisan basis we make this one of our top priorities. This is a crisis waiting to happen. If we are not prepared for it now, we will all be extraordinarily sorry.

The only other comment I will make is, I know times are tough with respect to our budget. I am working with my colleagues across the aisle to figure out ways we can come up with the money for Katrina and Iraq. This is a sound investment. If we don't make this investment now, we will pay much more later.

So I hope the amendment Senator HARKIN is going to offer will get bipartisan support and receive the utmost consideration from this Chamber.

Thank you very much, Mr. President.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I want the Senate to know I welcome the attention of Senators to the problem of the avian virus. In 1997, because of information I discovered concerning what Senator OBAMA just mentioned—the intersection where wild birds come to Alaska from the Chinese mainland and other places in the world, including Russia—we began a series of funds in the Agriculture bill to study the process of this virus being transmitted. As Senator OBAMA has mentioned, so far it has always been bird to bird or animal to animal. There has been no transmutation to take it from human to human or bird to human. It is one of the dangerous problems of the world, no question about it.

When I first heard of Senator HARKIN's amendment, I said I might—I said I would cosponsor it. As I read it, it is not just about the virus. It is reversing the President's decision with regard to State and local public health agencies. It is starting an addition to the domestic vaccine infrastructure. All of that, I understand, was part of the briefing some Senators had yesterday and I am informed others will soon get.

There is a BioShield group working in the administration, particularly in the agencies that are dealing with disease control and various other subjects. There will undoubtedly be a presentation by them to the Congress. There has not been such a presentation yet. The briefing the Senators got was for the information concerning what those people are doing who are working on that plan.

This is an amendment that sort of short circuits the concept of dealing with it and asks for some of the money they ask for, but I am told the amendment will not distribute the money the way the BioShield proposal will distribute it. It is brought to us as an emergency measure. It may well be that the BioShield people bring us a bill that is partially emergency and partially funded. We do not know yet.

But very clearly we do know there is no current human-to-human transmission that has been known of in the world. For us to say this is the greatest problem we have and is superior to some of the things we are doing, particularly in Iraq or in the war on terror, I think is a totally misplaced comparison, as far as I am concerned. I am just back from Iraq. I have seen some of the dangers over there and have talked to some of the people who have been injured over there. To compare the money we have in this bill to fund them with funding a proposal to deal

with a virus, for something that has not yet become a threat to human beings, I believe is wrong.

The BioShield proposal will be before the Congress, I am told, in this Congress. I want to announce now that I will ask the chairman of the Budget Committee to raise a point of order to this amendment. It is an emergency declaration. It is not the recommendations of the BioShield group who briefed the Senator last night. It is a premature attempt to bring it to the floor on the Defense bill where it does not belong. So I hope the Senate will agree with us and not make this an emergency appropriations at this time.

Now, there is no question in my mind this could well develop into a political argument. I have been on this floor now since 1981 as one of the managers of this bill. I cannot remember a time when we had a political argument on a nongermane amendment to this bill. This is a bill to fund the people in uniform overseas. It is not the authorization bill where there are amendments from time to time offered which are nongermane. We have had a policy of no nongermane amendments on this bill. I intend to pursue that policy.

This is not a germane amendment. This is an amendment that is premature in terms of avian flu. Again, I say no one has a greater interest in this avian flu than I do. When I go home on weekends and I go to a restaurant I love, I know I am sitting next to people who have just come back from Russia. We go to Russia daily from my State. We go to China daily from my State. We have pilots who fly planes throughout China, throughout Russia, living right there in the community in which I live. We know there is an avian flu potential over there. The birds that come from over there intersect with our birds. We know that. We have been studying that since 1997. Just yesterday, I talked to a doctor about avian flu vaccine and when we would be able to get it for Alaska. I was told we will get it in time.

But now I come out here and I have an amendment to be offered when we take up the bill that makes it an emergency to appropriate almost $4 billion, and not on the basis of recommendations of the experts but on the basis of some Senators who were briefed yesterday, prematurely, at their request, of studies that are going on at the administration.

Now, I am not one who takes lightly bringing subjects to this bill that do not pertain to protecting people in uniform. We had a similar situation once with regard to anthrax and other studies, and we acted very promptly because that did apply to people in uniform. But this is not something that pertains to the defense of the United States. It could very well be in the future a very vital issue to our Nation and to the world, but right now we ought to wait for the scientists to come and tell us what needs to be done, how it needs to be done, where it needs to be done, and who is going to do it. But this is throwing money at a wall. I will oppose that.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2006

Mr. STEVENS. Mr. President, I now ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 230, H.R. 2863. I further ask consent that the committee-reported substitute be agreed to as original text for the purposes of further amendment, with no points of order waived by virtue of this agreement.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. With the understanding I would be able to offer an amendment as soon as the bill is laid down.

Mr. STEVENS. Mr. President, once the bill is before the Senate, it is open to amendment.

The PRESIDING OFFICER. Does the Senator modify his request?

Mr. STEVENS. I will not consent to that. Under the rules, he is entitled to offer an amendment. I have asked unanimous consent.

Mr. HARKIN. Okay.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2863) making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

Thereupon, the Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations, with an amendment.

(Strike the part in black brackets and insert the part shown in italic.)

H.R. 2863

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

[That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2006, for military functions administered by the Department of Defense and for other purposes, namely:

[TITLE I

[MILITARY PERSONNEL

[MILITARY PERSONNEL, ARMY

[For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty, (except members of reserve components provided for elsewhere), cadets, and aviation cadets; for members of the Reserve Officers' Training Corps; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, $24,357,895,000.

[MILITARY PERSONNEL, NAVY

[For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; for members of the Reserve Officers' Training Corps; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, $19,417,696,000.

[MILITARY PERSONNEL, MARINE CORPS

[For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, $7,839,813,000.

[MILITARY PERSONNEL, AIR FORCE

[For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; for members of the Reserve Officers' Training Corps; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, $20,083,037,000.

[RESERVE PERSONNEL, ARMY

[For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 10211, 10302, and 3038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $2,862,103,000.

[RESERVE PERSONNEL, NAVY

[For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Navy Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $1,486,061,000.

[RESERVE PERSONNEL, MARINE CORPS

[For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing

drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $472,392,000.

[RESERVE PERSONNEL, AIR FORCE

[For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 10211, 10305, and 8038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $1,225,360,000.

[NATIONAL GUARD PERSONNEL, ARMY

[For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under section 10211, 10302, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $4,359,704,000.

[NATIONAL GUARD PERSONNEL, AIR FORCE

[For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under section 10211, 10305, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $2,028,215,000.

[TITLE II

[OPERATION AND MAINTENANCE

[OPERATION AND MAINTENANCE, ARMY

[(INCLUDING TRANSFER OF FUNDS)

[For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed $11,478,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes, $22,432,727,000: *Provided*, That of funds made available under this heading, $2,500,000 shall be available for Fort Baker, in accordance with the terms and conditions as provided under the heading ''Operation and Maintenance, Army'', in Public Law 107–117.

[OPERATION AND MAINTENANCE, NAVY

[For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed $6,003,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes, $28,719,818,000.

[OPERATION AND MAINTENANCE, MARINE CORPS

[For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law, $3,123,766,000.

[OPERATION AND MAINTENANCE, AIR FORCE

[For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law; and not to exceed $7,699,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes, $28,659,373,000.

[OPERATION AND MAINTENANCE, DEFENSE-WIDE

[(INCLUDING TRANSFER OF FUNDS)

[For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law, $18,323,516,000: *Provided*, That not more than $25,000,000 may be used for the Combatant Commander Initiative Fund authorized under section 166a of title 10, United States Code, and of which not to exceed $40,000,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes: *Provided further*, That notwithstanding any other provision of law, of the funds provided in this Act for Civil Military programs under this heading, $500,000 shall be available for a grant for Outdoor Odyssey, Roaring Run, Pennsylvania, to support the Youth Development and Leadership program and Department of Defense STARBASE program: *Provided further*, That of the funds made available under this heading, $5,000,000 is available for contractor support to coordinate a wind test demonstration project on an Air Force installation using wind turbines manufactured in the United States that are new to the United States market and to execute the renewable energy purchasing plan: *Provided further*, That none of the funds appropriated or otherwise made available by this Act may be used to plan or implement the consolidation of a budget or appropriations liaison office of the Office of the Secretary of Defense, the office of the Secretary of a military department, or the service headquarters of one of the Armed Forces into a legislative affairs or legislative liaison office: *Provided further*, That $4,000,000, to remain available until expended, is available only for expenses relating to certain classified activities, and may be transferred as necessary by the Secretary to operation and maintenance appropriations or research, development, test and evaluation appropriations, to be merged with and to be available for the same time period as the appropriations to which transferred: *Provided further*, That any ceiling on the investment item unit cost of items that may be purchased with operation and maintenance funds shall not apply to the funds described in the preceding proviso: *Provided further*, That the transfer authority provided under this heading is in addition to any other transfer authority provided elsewhere in this Act.

[OPERATION AND MAINTENANCE, ARMY RESERVE

[For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $1,791,212,000.

[OPERATION AND MAINTENANCE, NAVY RESERVE

[For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $1,178,607,000.

[OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

[For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $199,929,000.

[OPERATION AND MAINTENANCE, AIR FORCE RESERVE

[For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $2,465,122,000.

[OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

[For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft), $4,142,875,000.

[OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

[For expenses of training, organizing, and administering the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; transportation of things, hire of passenger motor vehicles; supplying and equipping the Air National Guard, as authorized by law; expenses for repair, modification, maintenance, and issue of supplies and equipment, including those furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau, $4,547,515,000.

[OVERSEAS CONTINGENCY OPERATIONS TRANSFER ACCOUNT

[(INCLUDING TRANSFER OF FUNDS)

[For expenses directly relating to Overseas Contingency Operations by United States military forces, $20,000,000, to remain available until expended: *Provided*, That the Secretary of Defense may transfer these funds only to military personnel accounts; operation and maintenance accounts within this title; procurement accounts; research, development, test and evaluation accounts; and to working capital funds: *Provided further*, That the funds transferred shall be merged with and shall be available for the same purposes and for the same time period, as the appropriation to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That the transfer authority provided in this paragraph is in addition to any other transfer authority contained elsewhere in this Act.

[UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES

[For salaries and expenses necessary for the United States Court of Appeals for the Armed Forces, $11,236,000, of which not to exceed $5,000 may be used for official representation purposes.

[OVERSEAS HUMANITARIAN, DISASTER, AND CIVIC AID

[For expenses relating to the Overseas Humanitarian, Disaster, and Civic Aid programs of the Department of Defense (consisting of the programs provided under sections 401, 402, 404, 2557, and 2561 of title 10, United States Code), $61,546,000, to remain available until September 30, 2007.

[FORMER SOVIET UNION THREAT REDUCTION ACCOUNT

[For assistance to the republics of the former Soviet Union, including assistance provided by contract or by grants, for facilitating the elimination and the safe and secure transportation and storage of nuclear, chemical and other weapons; for establishing programs to prevent the proliferation of weapons, weapons components, and weapon-related technology and expertise; for programs relating to the training and support of defense and military personnel for demilitarization and protection of weapons, weapons components and weapons technology and expertise, and for defense and military contacts, $415,549,000, to remain available until September 30, 2008.

[TITLE III

[PROCUREMENT

[AIRCRAFT PROCUREMENT, ARMY

[For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $2,879,380,000, to remain available for obligation until September 30, 2008, of which $203,500,000 shall be available for the Army National Guard and Army Reserve: *Provided*, That $75,000,000 of the funds provided in this paragraph are available only for the purpose of acquiring four (4) HH–60L medical evacuation variant Blackhawk helicopters for the C/1–159th Aviation Regiment (Army Reserve): *Provided further*, That three (3) UH–60 Blackhawk helicopters in addition to those referred to in the preceding proviso shall be available only for the C/1–159th Aviation Regiment (Army Reserve).

[MISSILE PROCUREMENT, ARMY

[For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $1,239,350,000, to remain available for obligation until September 30, 2008, of which $150,000,000 shall be available for the Army National Guard and Army Reserve.

[PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

[For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $1,670,949,000, to remain available for obligation until September 30, 2008, of which $614,800,000 shall be available for the Army National Guard and Army Reserve.

[PROCUREMENT OF AMMUNITION, ARMY

[For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities, authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $1,753,152,000, to remain available for obligation until September 30, 2008, of which $119,000,000 shall be available for the Army National Guard and Army Reserve.

[OTHER PROCUREMENT, ARMY

[For construction, procurement, production, and modification of vehicles, including tactical, support, and non-tracked combat vehicles; the purchase of passenger motor vehicles for replacement only; communications and electronic equipment; other support equipment; spare parts, ordnance, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $4,491,634,000, to remain available for obligation until September 30, 2008, of which $765,400,000 shall be available for the Army National Guard and Army Reserve.

[AIRCRAFT PROCUREMENT, NAVY

[For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, $9,776,440,000, to remain available for obligation until September 30, 2008, of which $57,779,000 shall be available for the Navy Reserve and the Marine Corps Reserve.

[WEAPONS PROCUREMENT, NAVY

[For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, and related support equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, $2,596,781,000, to remain available for obligation until September 30, 2008.

[PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS

[For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities, authorized by section 2854 of title 10, United States Code and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $885,170,000, to remain available for obligation until September 30, 2008, of which $19,562,000 shall be available for the Navy Reserve and Marine Corps Reserve.

[SHIPBUILDING AND CONVERSION, NAVY

[For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, as follows:

[Carrier Replacement Program (AP), $564,913,000.

[Virginia Class Submarine, $1,637,698,000.

[Virginia Class Submarine (AP), $763,786,000.

[SSGN Conversion, $286,516,000.

[CVN Refueling Overhauls, $1,300,000,000.

[CVN Refueling Overhauls (AP), $20,000,000.

[SSN Engineered Refueling Overhauls (AP), $39,524,000.

[SSBN Engineered Refueling Overhauls, $230,193,000.

[SSBN Engineered Refueling Overhauls (AP), $62,248,000.

[DDG–51 Destroyer, $1,550,000,000.

[DDG–51 Destroyer Modernization, $50,000,000.

[Littoral Combat Ship, $440,000,000.

[LHD–1, $197,769,000.

[LPD–17, $1,344,741,000.

[LHA–R (AP), $200,447,000.

[Service Craft, $46,000,000.

[LCAC Service Life Extension Program, $100,000,000.

[Prior year shipbuilding costs, $394,523,000.

[Outfitting, post delivery, conversions, and first destination transportation, $385,000,000.

[In all: $9,613,358,000, to remain available for obligation until September 30, 2010: *Provided*, That additional obligations may be incurred after September 30, 2010, for engineering services, tests, evaluations, and other such budgeted work that must be performed in the final stage of ship construction: *Provided further*, That none of the funds provided under this heading for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign facilities for the construction of major components of such vessel: *Provided further*, That none of the funds provided under this heading shall be used for the construction of any naval vessel in foreign shipyards.

[OTHER PROCUREMENT, NAVY

[For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance (except ordnance for new aircraft, new ships, and ships authorized for conversion); the purchase of passenger motor vehicles for replacement only; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, $5,461,196,000, to remain available for obligation until September 30, 2008, of which $43,712,000 shall be available for the Navy Reserve and Marine Corps Reserve.

[PROCUREMENT, MARINE CORPS

[For expenses necessary for the procurement, manufacture, and modification of missiles, armament, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; vehicles for the Marine Corps, including the purchase of passenger motor vehicles for replacement only; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, $1,426,405,000, to remain available for obligation until September 30, 2008.

[AIRCRAFT PROCUREMENT, AIR FORCE

[For construction, procurement, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things, $12,424,298,000, to remain available for obligation until September 30, 2008, of which $380,000,000 shall be available for the Air National Guard and Air Force Reserve.

[MISSILE PROCUREMENT, AIR FORCE

[For construction, procurement, and modification of missiles, spacecraft, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things, $5,062,949,000, to remain available for obligation until September 30, 2008.

[PROCUREMENT OF AMMUNITION, AIR FORCE

[For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities, authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $1,031,907,000, to remain available for obligation until September 30, 2008, of which $164,800,000 shall be available for the Air National Guard and Air Force Reserve.

[OTHER PROCUREMENT, AIR FORCE

[For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of passenger motor vehicles for replacement only; lease of passenger motor vehicles; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon, prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, $13,737,214,000, to remain available for obligation until September 30, 2008, of which $135,800,000 shall be available for the Air National Guard and Air Force Reserve.

[PROCUREMENT, DEFENSE-WIDE

[For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of passenger motor vehicles for replacement only; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, $2,728,130,000, to remain available for obligation until September 30, 2008.

[DEFENSE PRODUCTION ACT PURCHASES

[For activities by the Department of Defense pursuant to sections 108, 301, 302, and 303 of the Defense Production Act of 1950 (50 U.S.C. App. 2078, 2091, 2092, and 2093), $28,573,000, to remain available until expended.

[TITLE IV

[RESEARCH, DEVELOPMENT, TEST AND EVALUATION

[RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

[For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, $10,827,174,000 (reduced by $10,000,000) (increased by $10,000,000), to remain available for obligation until September 30, 2007.

[RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

[For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, $18,481,862,000, to remain available for obligation until September 30, 2007: *Provided*, That funds appropriated in this paragraph which are available for the V–22 may be used to meet unique operational requirements of the Special Operations Forces: *Provided further*, That funds appropriated in this paragraph shall be available for the Cobra Judy program.

[RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

[For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, $22,664,868,000, to remain available for obligation until September 30, 2007.

[RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

[For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, $19,514,530,000, to remain available for obligation until September 30, 2007.

[OPERATIONAL TEST AND EVALUATION, DEFENSE

[For expenses, not otherwise provided for, necessary for the independent activities of the Director, Operational Test and Evaluation, in the direction and supervision of operational test and evaluation, including initial operational test and evaluation which is conducted prior to, and in support of, production decisions; joint operational testing and evaluation; and administrative expenses in connection therewith, $168,458,000, to remain available for obligation until September 30, 2007.

[TITLE V

[REVOLVING AND MANAGEMENT FUNDS

[DEFENSE WORKING CAPITAL FUNDS

[For the Defense Working Capital Funds, $1,154,340,000.

[NATIONAL DEFENSE SEALIFT FUND

[For National Defense Sealift Fund programs, projects, and activities, and for expenses of the National Defense Reserve Fleet, as established by section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744), and for the necessary expenses to maintain and preserve a U.S.-flag merchant fleet to serve the national security needs of the United States, $1,599,459,000, to remain available until expended: *Provided*, That none of the funds provided in this paragraph shall be used to award a new contract that provides for the acquisition of any of the following major components unless such components are manufactured in the United States: auxiliary equipment, including pumps, for all shipboard services; propulsion system components (that is; engines, reduction gears, and propellers); shipboard cranes; and spreaders for shipboard cranes: *Provided further*, That the exercise of an option in a contract awarded through the obligation of previously appropriated funds shall not be considered to be the award of a new contract: *Provided further*, That the Secretary of the military department responsible for such procurement may waive the restrictions in the first proviso on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes.

[TITLE VI

[OTHER DEPARTMENT OF DEFENSE PROGRAMS

[CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, ARMY

[For expenses, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions in accordance with the provisions of section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), and for the destruction of other chemical warfare materials that are not in the chemical weapon stockpile, $1,355,827,000, of which $1,191,514,000 shall be for Operation and maintenance; $116,527,000 shall be for Procurement to remain available until September 30, 2008; $47,786,000 shall be for Research, development, test and evaluation to remain available until September 30, 2007; and not less than $119,300,000 shall be for the Chemical Stockpile Emergency Preparedness Program, of which $36,800,000 shall be for activities on military installations and $82,500,000 shall be to assist State and local governments.

[DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

[(INCLUDING TRANSFER OF FUNDS)

[For drug interdiction and counter-drug activities of the Department of Defense, for transfer to appropriations available to the Department of Defense for military personnel of the reserve components serving under the provisions of title 10 and title 32, United States Code; for Operation and maintenance; for Procurement; and for Research, development, test and evaluation, $906,941,000: *Provided*, That the funds appropriated under this heading shall be available for obligation for the same time period and for the same purpose as the appropriation to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That the transfer authority provided under this heading is in addition to any other transfer authority contained elsewhere in this Act.

[OFFICE OF THE INSPECTOR GENERAL

[For expenses and activities of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $209,687,000, of which $208,687,000 shall be for Operation and maintenance, of which not to exceed $700,000 is available for emergencies and extraordinary expenses to be expended on the approval or authority of the Inspector General, and payments may be made on the Inspector General's certificate of necessity for confidential military purposes; and of which $1,000,000, to remain available until September 30, 2008, shall be for Procurement.

[TITLE VII

[RELATED AGENCIES

[CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM FUND

[For payment to the Central Intelligence Agency Retirement and Disability System Fund, to maintain the proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System, $244,600,000.

[INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT

[(INCLUDING TRANSFER OF FUNDS)

[For necessary expenses of the Intelligence Community Management Account, $376,844,000 of which $27,454,000 for the Advanced Research and Development Committee shall remain available until September 30, 2007: *Provided*, That of the funds appropriated under this heading, $39,000,000 shall be transferred to the Department of Justice for the National Drug Intelligence Center to support the Department of Defense's counter-drug intelligence responsibilities, and of the said amount, $1,500,000 for Procurement shall remain available until September 30, 2008 and $1,000,000 for Research, development, test and evaluation shall remain available until September 30, 2007: *Provided further*, That the National Drug Intelligence Center shall maintain the personnel and technical resources to provide timely support to law enforcement authorities and the intelligence community by conducting document and computer exploitation of materials collected in Federal, State, and local law enforcement activity associated with counter-drug, counter-terrorism, and national security investigations and operations.

[TITLE VIII

[GENERAL PROVISIONS

[SEC. 8001. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

[SEC. 8002. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense: *Provided*, That salary increases granted to direct and indirect hire foreign national employees of the Department of Defense funded by this Act shall not be at a rate in excess of the percentage increase authorized by law for civilian employees of the Department of Defense whose pay is computed under the provisions of section 5332 of title 5, United States Code, or at a rate in excess of the percentage increase provided by the appropriate host nation to its own employees, whichever is higher: *Provided further*, That this section shall not apply to Department of Defense foreign service national employees serving at United States diplomatic missions whose pay is set by the Department of State under the Foreign Service Act of 1980: *Provided further*, That the limitations of this provision shall not apply to foreign national employees of the Department of Defense in the Republic of Turkey.

[SEC. 8003. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year, unless expressly so provided herein.

[SEC. 8004. No more than 20 percent of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last 2 months of the fiscal year: *Provided*, That this section shall not apply to obligations for support of active duty training of reserve components or summer camp training of the Reserve Officers' Training Corps.

[(TRANSFER OF FUNDS)

[SEC. 8005. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed $4,000,000,000 of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided*, That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by the Congress: *Provided further*, That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority or any other authority in this Act: *Provided further*, That no part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress: *Provided further*, That a request for multiple reprogrammings of funds using authority provided in this section must be made prior to June 30, 2006: *Provided further*, That transfers among military personnel appropriations shall not be taken into account for purposes of the limitation on the amount of funds that may be transferred under this section.

[(TRANSFER OF FUNDS)

[SEC. 8006. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: *Provided*, That transfers may be made between such funds: *Provided further*, That transfers may be made between working capital funds and the ''Foreign Currency Fluctuations, Defense'' appropriation and the ''Operation and Maintenance'' appropriation accounts in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that such transfers may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. Except in amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure or increase the value of war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.

[SEC. 8007. Funds appropriated by this Act may not be used to initiate a special access program without prior notification 30 calendar days in session in advance to the congressional defense committees.

[SEC. 8008. None of the funds provided in this Act shall be available to initiate: (1) a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any 1 year of the contract or that includes an unfunded contingent liability in excess of $20,000,000; or (2) a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any 1 year, unless the congressional defense committees have been notified at least 30 days in advance of the proposed contract award: *Provided*, That no part of any appropriation contained in this Act shall be available to initiate a multiyear contract for which the economic order quantity advance procurement is not funded at least to the limits of the Government's liability: *Provided further*, That no part of any appropriation contained in this Act shall be available to initiate multiyear procurement contracts for any systems or component thereof if the value of the multiyear contract would exceed $500,000,000 unless specifically provided in this Act: *Provided further*, That no multiyear procurement contract can be terminated without 10-day prior notification to the congressional defense committees: *Provided further*, That the execution of multiyear authority shall require the use of a present value analysis to determine lowest cost compared to an annual procurement: *Provided further*, That none of the funds provided in this Act may be used for a multiyear contract executed after the date of the enactment of this Act unless in the case of any such contract—

[(1) the Secretary of Defense has submitted to Congress a budget request for full funding of units to be procured through the contract;

[(2) cancellation provisions in the contract do not include consideration of recurring manufacturing costs of the contractor associated with the production of unfunded units to be delivered under the contract;

[(3) the contract provides that payments to the contractor under the contract shall not be made in advance of incurred costs on funded units; and

[(4) the contract does not provide for a price adjustment based on a failure to award a follow-on contract.

[Funds appropriated in title III of this Act may be used for a multiyear procurement contract as follows:

[UH–60/MH–60 Helicopters.

[Apache Block II Conversion.

[Modernized Target Acquisition Designation Sight/Pilot Night Vision Sensor (MTADS/PNVS).

[SEC. 8009. Within the funds appropriated for the operation and maintenance of the Armed Forces, funds are hereby appropriated pursuant to section 401 of title 10, United States Code, for humanitarian and civic assistance costs under chapter 20 of title 10, United States Code. Such funds may also be obligated for humanitarian and civic assistance costs incidental to authorized operations and pursuant to authority granted in section 401 of chapter 20 of title 10, United States Code, and these obligations shall be reported as required by section 401(d) of title 10, United States Code: *Provided*, That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99–239: *Provided further*, That upon a determination by the Secretary of the Army that such action is beneficial for graduate medical education programs conducted at Army medical facilities located in Hawaii, the Secretary of the Army may authorize the provision of medical services at such facilities and transportation to such facilities, on a nonreimbursable basis, for civilian patients from American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, Palau, and Guam.

[SEC. 8010. (a) During fiscal year 2006, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an end-strength) on the number of such personnel who may be employed on the last day of such fiscal year.

[(b) The fiscal year 2007 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2007 Department of Defense budget request shall be prepared and submitted to the Congress as if subsections (a) and (b) of this provision were effective with regard to fiscal year 2007.

[(c) Nothing in this section shall be construed to apply to military (civilian) technicians.

[SEC. 8011. None of the funds appropriated in this or any other Act may be used to initiate a new installation overseas without 30-day advance notification to the Committees on Appropriations.

[SEC. 8012. None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.

[SEC. 8013. None of the funds appropriated by this Act shall be available for the basic pay and allowances of any member of the Army participating as a full-time student and receiving benefits paid by the Secretary of Veterans Affairs from the Department of Defense Education Benefits Fund when time spent as a full-time student is credited toward completion of a service commitment: *Provided*, That this subsection shall not apply to those members who have reenlisted with this option prior to October 1, 1987: *Provided further*, That this subsection applies only to active components of the Army.

[SEC. 8014. (a) LIMITATION ON CONVERSION TO CONTRACTOR PERFORMANCE.—None of the funds appropriated by this Act shall be available to convert to contractor performance an activity or function of the Department of Defense that, on or after the date of the enactment of this Act, is performed by more than 10 Department of Defense civilian employees unless—

[(1) the conversion is based on the result of a public-private competition that includes a most efficient and cost effective organization plan developed by such activity or function;

[(2) the Competitive Sourcing Official determines that, over all performance periods stated in the solicitation of offers for performance of the activity or function, the cost of performance of the activity or function by a contractor would be less costly to the Department of Defense by an amount that equals or exceeds the lesser of—

[(A) 10 percent of the most efficient organization's personnel-related costs for performance of that activity or function by Federal employees; or

[(B) $10,000,000; and

[(3) the contractor does not receive an advantage for a proposal that would reduce costs for the Department of Defense by—

[(A) not making an employer-sponsored health insurance plan available to the workers who are to be employed in the performance of that activity or function under the contract; or

[(B) offering to such workers an employer-sponsored health benefits plan that requires the employer to contribute less towards the premium or subscription share than the amount that is paid by the Department of Defense for health benefits for civilian employees under chapter 89 of title 5, United States Code.

[(b) EXCEPTIONS.—

[(1) The Department of Defense, without regard to subsection (a) of this section or subsections (a), (b), or (c) of section 2461 of title 10, United States Code, and notwithstanding any administrative regulation, requirement, or policy to the contrary shall have full authority to enter into a contract for the performance of any commercial or industrial type function of the Department of Defense that—

[(A) is included on the procurement list established pursuant to section 2 of the Javits-Wagner-O'Day Act (41 U.S.C. 47);

[(B) is planned to be converted to performance by a qualified nonprofit agency for the blind or by a qualified nonprofit agency for other severely handicapped individuals in accordance with that Act; or

[(C) is planned to be converted to performance by a qualified firm under at least 51 percent ownership by an Indian tribe, as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)), or a Native Hawaiian Organization, as defined in section 8(a)(15) of the Small Business Act (15 U.S.C. 637(a)(15)).

[(2) This section shall not apply to depot contracts or contracts for depot maintenance as provided in sections 2469 and 2474 of title 10, United States Code.

[(c) TREATMENT OF CONVERSION.—The conversion of any activity or function of the Department of Defense under the authority provided by this section shall be credited toward any competitive or outsourcing goal, target, or measurement that may be established by statute, regulation, or policy and is deemed to be awarded under the authority of, and in compliance with, subsection (h) of section 2304 of title 10, United States Code, for the competition or outsourcing of commercial activities.

[(TRANSFER OF FUNDS)

[SEC. 8015. Funds appropriated in title III of this Act for the Department of Defense Pilot Mentor-Protege Program may be transferred to any other appropriation contained in this Act solely for the purpose of implementing a Mentor-Protege Program developmental assistance agreement pursuant to section 831 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 2302 note), as amended, under the authority of this provision or any other transfer authority contained in this Act.

[SEC. 8016. None of the funds in this Act may be available for the purchase by the Department of Defense (and its departments and agencies) of welded shipboard anchor and mooring chain 4 inches in diameter and under unless the anchor and mooring chain are manufactured in the United States from components which are substantially manufactured in the United States: *Provided*, That for the purpose of this section manufactured will include cutting, heat treating, quality control, testing of chain and welding (including the forging and shot blasting process): *Provided further*, That for the purpose of this section substantially all of the components of anchor and mooring chain shall be considered to be produced or manufactured in the United States if the aggregate cost of the components produced or manufactured in the

United States exceeds the aggregate cost of the components produced or manufactured outside the United States: *Provided further*, That when adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis, the Secretary of the service responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations that such an acquisition must be made in order to acquire capability for national security purposes.

[SEC. 8017. None of the funds available to the Department of Defense may be used to demilitarize or dispose of M–1 Carbines, M–1 Garand rifles, M–14 rifles, .22 caliber rifles, .30 caliber rifles, or M–1911 pistols.

[SEC. 8018. No more than $500,000 of the funds appropriated or made available in this Act shall be used during a single fiscal year for any single relocation of an organization, unit, activity or function of the Department of Defense into or within the National Capital Region: *Provided*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the congressional defense committees that such a relocation is required in the best interest of the Government.

[SEC. 8019. In addition to the funds provided elsewhere in this Act, $8,000,000 is appropriated only for incentive payments authorized by section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544): *Provided*, That a prime contractor or a subcontractor at any tier that makes a subcontract award to any subcontractor or supplier as defined in 25 U.S.C. 1544 or a small business owned and controlled by an individual or individuals defined under 25 U.S.C. 4221(9) shall be considered a contractor for the purposes of being allowed additional compensation under section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544) whenever the prime contract or subcontract amount is over $500,000 and involves the expenditure of funds appropriated by an Act making Appropriations for the Department of Defense with respect to any fiscal year: *Provided further*, That notwithstanding 41 U.S.C. 430, this section shall be applicable to any Department of Defense acquisition of supplies or services, including any contract and any subcontract at any tier for acquisition of commercial items produced or manufactured, in whole or in part by any subcontractor or supplier defined in 25 U.S.C. 1544 or a small business owned and controlled by an individual or individuals defined under 25 U.S.C. 4221(9): *Provided further*, That businesses certified as 8(a) by the Small Business Administration pursuant to section 8(a)(15) of Public Law 85–536, as amended, shall have the same status as other program participants under section 602 of Public Law 100–656, 102 Stat. 3825 (Business Opportunity Development Reform Act of 1988) for purposes of contracting with agencies of the Department of Defense.

[SEC. 8020. None of the funds appropriated by this Act shall be available to perform any cost study pursuant to the provisions of OMB Circular A–76 if the study being performed exceeds a period of 24 months after initiation of such study with respect to a single function activity or 30 months after initiation of such study for a multi-function activity.

[SEC. 8021. Funds appropriated by this Act for the American Forces Information Service shall not be used for any national or international political or psychological activities.

[SEC. 8022. Notwithstanding any other provision of law or regulation, the Secretary of Defense may adjust wage rates for civilian employees hired for certain health care occupations as authorized for the Secretary of Veterans Affairs by section 7455 of title 38, United States Code.

[SEC. 8023. During the current fiscal year, the Department of Defense is authorized to incur obligations of not to exceed $350,000,000 for purposes specified in section 2350j(c) of title 10, United States Code, in anticipation of receipt of contributions, only from the Government of Kuwait, under that section: *Provided*, That upon receipt, such contributions from the Government of Kuwait shall be credited to the appropriations or fund which incurred such obligations.

[(INCLUDING TRANSFER OF FUNDS)

[SEC. 8024. (a) Of the funds made available in this Act, not less than $33,767,000 shall be available for the Civil Air Patrol Corporation, of which—

[(1) $24,376,000 shall be available from ''Operation and Maintenance, Air Force'' to support Civil Air Patrol Corporation operation and maintenance, readiness, counterdrug activities, and drug demand reduction activities involving youth programs;

[(2) $8,571,000 shall be available from ''Aircraft Procurement, Air Force''; and

[(3) $820,000 shall be available from ''Other Procurement, Air Force'' for vehicle procurement.

[(b) The Secretary of the Air Force should waive reimbursement for any funds used by the Civil Air Patrol for counter-drug activities in support of Federal, State, and local government agencies.

[SEC. 8025. (a) None of the funds appropriated in this Act are available to establish a new Department of Defense (department) federally funded research and development center (FFRDC), either as a new entity, or as a separate entity administrated by an organization managing another FFRDC, or as a nonprofit membership corporation consisting of a consortium of other FFRDCs and other non-profit entities.

[(b) No member of a Board of Directors, Trustees, Overseers, Advisory Group, Special Issues Panel, Visiting Committee, or any similar entity of a defense FFRDC, and no paid consultant to any defense FFRDC, except when acting in a technical advisory capacity, may be compensated for his or her services as a member of such entity, or as a paid consultant by more than one FFRDC in a fiscal year: *Provided*, That a member of any such entity referred to previously in this subsection shall be allowed travel expenses and per diem as authorized under the Federal Joint Travel Regulations, when engaged in the performance of membership duties.

[(c) Notwithstanding any other provision of law, none of the funds available to the department from any source during fiscal year 2006 may be used by a defense FFRDC, through a fee or other payment mechanism, for construction of new buildings, for payment of cost sharing for projects funded by Government grants, for absorption of contract overruns, or for certain charitable contributions, not to include employee participation in community service and/or development.

[(d) Notwithstanding any other provision of law, of the funds available to the department during fiscal year 2006, not more than 5,537 staff years of technical effort (staff years) may be funded for defense FFRDCs: *Provided*, That this subsection shall not apply to staff years funded in the National Intelligence Program.

[(e) The Secretary of Defense shall, with the submission of the department's fiscal year 2007 budget request, submit a report presenting the specific amounts of staff years of technical effort to be allocated for each defense FFRDC during that fiscal year.

[(f) Notwithstanding any other provision of this Act, the total amount appropriated in this Act for FFRDCs is hereby reduced by $40,000,000.

[SEC. 8026. None of the funds appropriated or made available in this Act shall be used to procure carbon, alloy or armor steel plate for use in any Government-owned facility or property under the control of the Department of Defense which were not melted and rolled in the United States or Canada: *Provided*, That these procurement restrictions shall apply to any and all Federal Supply Class 9515, American Society of Testing and Materials (ASTM) or American Iron and Steel Institute (AISI) specifications of carbon, alloy or armor steel plate: *Provided further*, That the Secretary of the military department responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: *Provided further*, That these restrictions shall not apply to contracts which are in being as of the date of the enactment of this Act.

[SEC. 8027. For the purposes of this Act, the term ''congressional defense committees'' means the Armed Services Committee of the House of Representatives, the Armed Services Committee of the Senate, the Subcommittee on Defense of the Committee on Appropriations of the Senate, and the Subcommittee on Defense of the Committee on Appropriations of the House of Representatives.

[SEC. 8028. During the current fiscal year, the Department of Defense may acquire the modification, depot maintenance and repair of aircraft, vehicles and vessels as well as the production of components and other Defense-related articles, through competition between Department of Defense depot maintenance activities and private firms: *Provided*, That the Senior Acquisition Executive of the military department or Defense Agency concerned, with power of delegation, shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private bids: *Provided further*, That Office of Management and Budget Circular A-76 shall not apply to competitions conducted under this section.

[SEC. 8029. (a)(1) If the Secretary of Defense, after consultation with the United States Trade Representative, determines that a foreign country which is party to an agreement described in paragraph (2) has violated the terms of the agreement by discriminating against certain types of products produced in the United States that are covered by the agreement, the Secretary of Defense shall rescind the Secretary's blanket waiver of the Buy American Act with respect to such types of products produced in that foreign country.

[(2) An agreement referred to in paragraph (1) is any reciprocal defense procurement memorandum of understanding, between the United States and a foreign country pursuant to which the Secretary of Defense has prospectively waived the Buy American Act for certain products in that country.

[(b) The Secretary of Defense shall submit to the Congress a report on the amount of Department of Defense purchases from foreign entities in fiscal year 2006. Such report shall separately indicate the dollar value of items for which the Buy American Act was waived pursuant to any agreement described in subsection (a)(2), the Trade Agreement Act of 1979 (19 U.S.C. 2501 et seq.), or any international agreement to which the United States is a party.

[(c) For purposes of this section, the term ''Buy American Act'' means title III of the Act entitled ''An Act making appropriations

for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes'', approved March 3, 1933 (41 U.S.C. 10a et seq.).

[SEC. 8030. Appropriations contained in this Act that remain available at the end of the current fiscal year, and at the end of each fiscal year hereafter, as a result of energy cost savings realized by the Department of Defense shall remain available for obligation for the next fiscal year to the extent, and for the purposes, provided in section 2865 of title 10, United States Code.

[SEC. 8031. The President shall include with each budget for a fiscal year submitted to the Congress under section 1105 of title 31, United States Code, materials that shall identify clearly and separately the amounts requested in the budget for appropriation for that fiscal year for salaries and expenses related to administrative activities of the Department of Defense, the military departments, and the defense agencies.

[SEC. 8032. Notwithstanding any other provision of law, funds available during the current fiscal year and hereafter for ''Drug Interdiction and Counter-Drug Activities, Defense'' may be obligated for the Young Marines program.

[(INCLUDING TRANSFER OF FUNDS)

[SEC. 8033. During the current fiscal year, amounts contained in the Department of Defense Overseas Military Facility Investment Recovery Account established by section 2921(c)(1) of the National Defense Authorization Act of 1991 (Public Law 101–510; 10 U.S.C. 2687 note) shall be available until expended for the payments specified by section 2921(c)(2) of that Act.

[SEC. 8034. (a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of the Air Force may convey at no cost to the Air Force, without consideration, to Indian tribes located in the States of North Dakota, South Dakota, Montana, and Minnesota relocatable military housing units located at Grand Forks Air Force Base and Minot Air Force Base that are excess to the needs of the Air Force.

[(b) PROCESSING OF REQUESTS.—The Secretary of the Air Force shall convey, at no cost to the Air Force, military housing units under subsection (a) in accordance with the request for such units that are submitted to the Secretary by the Operation Walking Shield Program on behalf of Indian tribes located in the States of North Dakota, South Dakota, Montana, and Minnesota.

[(c) RESOLUTION OF HOUSING UNIT CONFLICTS.—The Operation Walking Shield Program shall resolve any conflicts among requests of Indian tribes for housing units under subsection (a) before submitting requests to the Secretary of the Air Force under subsection (b).

[(d) INDIAN TRIBE DEFINED.—In this section, the term ''Indian tribe'' means any recognized Indian tribe included on the current list published by the Secretary of the Interior under section 104 of the Federally Recognized Indian Tribe Act of 1994 (Public Law 103–454; 108 Stat. 4792; 25 U.S.C. 479a–1).

[SEC. 8035. During the current fiscal year, appropriations which are available to the Department of Defense for operation and maintenance may be used to purchase items having an investment item unit cost of not more than $250,000.

[SEC. 8036. (a) During the current fiscal year, none of the appropriations or funds available to the Department of Defense Working Capital Funds shall be used for the purchase of an investment item for the purpose of acquiring a new inventory item for sale or anticipated sale during the current fiscal year or a subsequent fiscal year to customers of the Department of Defense Working Capital Funds if such an item would not have been chargeable to the Department of Defense Business Operations Fund during fiscal year 1994 and if the purchase of such an investment item would be chargeable during the current fiscal year to appropriations made to the Department of Defense for procurement.

[(b) The fiscal year 2007 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2007 Department of Defense budget shall be prepared and submitted to the Congress on the basis that any equipment which was classified as an end item and funded in a procurement appropriation contained in this Act shall be budgeted for in a proposed fiscal year 2007 procurement appropriation and not in the supply management business area or any other area or category of the Department of Defense Working Capital Funds.

[SEC. 8037. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year, except for funds appropriated for the Reserve for Contingencies, which shall remain available until September 30, 2007: *Provided*, That funds appropriated, transferred, or otherwise credited to the Central Intelligence Agency Central Services Working Capital Fund during this or any prior or subsequent fiscal year shall remain available until expended: *Provided further*, That any funds appropriated or transferred to the Central Intelligence Agency for advanced research and development acquisition, for agent operations, and for covert action programs authorized by the President under section 503 of the National Security Act of 1947, as amended, shall remain available until September 30, 2007.

[SEC. 8038. Notwithstanding any other provision of law, funds made available in this Act for the Defense Intelligence Agency may be used for the design, development, and deployment of General Defense Intelligence Program intelligence communications and intelligence information systems for the Services, the Unified and Specified Commands, and the component commands.

[SEC. 8039. Of the funds appropriated to the Department of Defense under the heading ''Operation and Maintenance, Defense-Wide'', not less than $10,000,000 shall be made available only for the mitigation of environmental impacts, including training and technical assistance to tribes, related administrative support, the gathering of information, documenting of environmental damage, and developing a system for prioritization of mitigation and cost to complete estimates for mitigation, on Indian lands resulting from Department of Defense activities.

[SEC. 8040. (a) None of the funds appropriated in this Act may be expended by an entity of the Department of Defense unless the entity, in expending the funds, complies with the Buy American Act. For purposes of this subsection, the term ''Buy American Act'' means title III of the Act entitled ''An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes'', approved March 3, 1933 (41 U.S.C. 10a et seq.).

[(b) If the Secretary of Defense determines that a person has been convicted of intentionally affixing a label bearing a ''Made in America'' inscription to any product sold in or shipped to the United States that is not made in America, the Secretary shall determine, in accordance with section 2410f of title 10, United States Code, whether the person should be debarred from contracting with the Department of Defense.

[(c) In the case of any equipment or products purchased with appropriations provided under this Act, it is the sense of the Congress that any entity of the Department of Defense, in expending the appropriation, purchase only American-made equipment and products, provided that American-made equipment and products are cost-competitive, quality-competitive, and available in a timely fashion.

[SEC. 8041. None of the funds appropriated by this Act shall be available for a contract for studies, analysis, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines—

[(1) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work;

[(2) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source; or

[(3) the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support: *Provided*, That this limitation shall not apply to contracts in an amount of less than $25,000, contracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

[SEC. 8042. (a) Except as provided in subsection (b) and (c), none of the funds made available by this Act may be used—

[(1) to establish a field operating agency; or

[(2) to pay the basic pay of a member of the Armed Forces or civilian employee of the department who is transferred or reassigned from a headquarters activity if the member or employee's place of duty remains at the location of that headquarters.

[(b) The Secretary of Defense or Secretary of a military department may waive the limitations in subsection (a), on a case-by-case basis, if the Secretary determines, and certifies to the Committees on Appropriations of the House of Representatives and Senate that the granting of the waiver will reduce the personnel requirements or the financial requirements of the department.

[(c) This section does not apply to field operating agencies funded within the National Intelligence Program.

[SEC. 8043. The Secretary of Defense, acting through the Office of Economic Adjustment of the Department of Defense, may use funds made available in this Act under the heading ''Operation and Maintenance, Defense-Wide'' to make grants and supplement other Federal funds in accordance with the guidance provided in the report of the Committee on Appropriations of the House of Representatives accompanying this Act, and the projects specified in such guidance shall be considered to be authorized by law.

[(RESCISSIONS)

[SEC. 8044. Of the funds appropriated in Department of Defense Appropriations Acts, the following funds are hereby rescinded from the following accounts and programs in the specified amounts:

[''Other Procurement, Army, 2005/2007'', $60,500,000.

[''Shipbuilding and Conversion, Navy, 2005/2011'', $325,000,000.

[''Aircraft Procurement, Air Force, 2005/2007'', $10,000,000.

[''Other Procurement, Air Force, 2005/2007'', $3,400,000.

[''Research, Development, Test and Evaluation, Army, 2005/2006'', $21,600,000.

[''Research, Development, Test and Evaluation, Navy, 2005/2006'', $5,100,000.

[''Research, Development, Test and Evaluation, Air Force, 2005/2006'', $142,000,000.

[''Research, Development, Test and Evaluation, Defense-Wide, 2005/2006'', $65,950,000.

[SEC. 8045. None of the funds available in this Act may be used to reduce the authorized positions for military (civilian) technicians of the Army National Guard, the Air National Guard, Army Reserve and Air Force Reserve for the purpose of applying any administratively imposed civilian personnel ceiling, freeze, or reduction on military (civilian) technicians, unless such reductions are a direct result of a reduction in military force structure.

[SEC. 8046. None of the funds appropriated or otherwise made available in this Act may be obligated or expended for assistance to the Democratic People's Republic of North Korea unless specifically appropriated for that purpose.

[SEC. 8047. Funds appropriated in this Act for operation and maintenance of the Military Departments, Combatant Commands and Defense Agencies shall be available for reimbursement of pay, allowances and other expenses which would otherwise be incurred against appropriations for the National Guard and Reserve when members of the National Guard and Reserve provide intelligence or counterintelligence support to Combatant Commands, Defense Agencies and Joint Intelligence Activities, including the activities and programs included within the National Intelligence Program, the Joint Military Intelligence Program, and the Tactical Intelligence and Related Activities aggregate: *Provided*, That nothing in this section authorizes deviation from established Reserve and National Guard personnel and training procedures.

[SEC. 8048. (a) None of the funds available to the Department of Defense for any fiscal year for drug interdiction or counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

[(b) None of the funds available to the Central Intelligence Agency for any fiscal year for drug interdiction and counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

[(TRANSFER OF FUNDS)

[SEC. 8049. Appropriations available under the heading ''Operation and Maintenance, Defense-Wide'' for the current fiscal year and hereafter for increasing energy and water efficiency in Federal buildings may, during their period of availability, be transferred to other appropriations or funds of the Department of Defense for projects related to increasing energy and water efficiency, to be merged with and to be available for the same general purposes, and for the same time period, as the appropriation or fund to which transferred.

[SEC. 8050. None of the funds appropriated by this Act may be used for the procurement of ball and roller bearings other than those produced by a domestic source and of domestic origin: *Provided*, That the Secretary of the military department responsible for such procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate, that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: *Provided further*, That this restriction shall not apply to the purchase of ''commercial items'', as defined by section 4(12) of the Office of Federal Procurement Policy Act, except that the restriction shall apply to ball or roller bearings purchased as end items.

[SEC. 8051. None of the funds in this Act may be used to purchase any supercomputer which is not manufactured in the United States, unless the Secretary of Defense certifies to the congressional defense committees that such an acquisition must be made in order to acquire capability for national security purposes that is not available from United States manufacturers.

[SEC. 8052. Notwithstanding any other provision of law, each contract awarded by the Department of Defense during the current fiscal year for construction or service performed in whole or in part in a State (as defined in section 381(d) of title 10, United States Code) which is not contiguous with another State and has an unemployment rate in excess of the national average rate of unemployment as determined by the Secretary of Labor, shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in such State that is not contiguous with another State, individuals who are residents of such State and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills: *Provided*, That the Secretary of Defense may waive the requirements of this section, on a case-by-case basis, in the interest of national security.

[SEC. 8053. None of the funds made available in this or any other Act may be used to pay the salary of any officer or employee of the Department of Defense who approves or implements the transfer of administrative responsibilities or budgetary resources of any program, project, or activity financed by this Act to the jurisdiction of another Federal agency not financed by this Act without the express authorization of Congress: *Provided*, That this limitation shall not apply to transfers of funds expressly provided for in Defense Appropriations Acts, or provisions of Acts providing supplemental appropriations for the Department of Defense.

[SEC. 8054. (a) LIMITATION ON TRANSFER OF DEFENSE ARTICLES AND SERVICES.—Notwithstanding any other provision of law, none of the funds available to the Department of Defense for the current fiscal year may be obligated or expended to transfer to another nation or an international organization any defense articles or services (other than intelligence services) for use in the activities described in subsection (b) unless the congressional defense committees, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate are notified 15 days in advance of such transfer.

[(b) COVERED ACTIVITIES.—This section applies to—

[(1) any international peacekeeping or peace-enforcement operation under the authority of chapter VI or chapter VII of the United Nations Charter under the authority of a United Nations Security Council resolution; and

[(2) any other international peacekeeping, peace-enforcement, or humanitarian assistance operation.

[(c) REQUIRED NOTICE.—A notice under subsection (a) shall include the following:

[(1) A description of the equipment, supplies, or services to be transferred.

[(2) A statement of the value of the equipment, supplies, or services to be transferred.

[(3) In the case of a proposed transfer of equipment or supplies—

[(A) a statement of whether the inventory requirements of all elements of the Armed Forces (including the reserve components) for the type of equipment or supplies to be transferred have been met; and

[(B) a statement of whether the items proposed to be transferred will have to be replaced and, if so, how the President proposes to provide funds for such replacement.

[SEC. 8055. None of the funds available to the Department of Defense under this Act shall be obligated or expended to pay a contractor under a contract with the Department of Defense for costs of any amount paid by the contractor to an employee when—

[(1) such costs are for a bonus or otherwise in excess of the normal salary paid by the contractor to the employee; and

[(2) such bonus is part of restructuring costs associated with a business combination.

[(INCLUDING TRANSFER OF FUNDS)

[SEC. 8056. During the current fiscal year, no more than $30,000,000 of appropriations made in this Act under the heading ''Operation and Maintenance, Defense-Wide'' may be transferred to appropriations available for the pay of military personnel, to be merged with, and to be available for the same time period as the appropriations to which transferred, to be used in support of such personnel in connection with support and services for eligible organizations and activities outside the Department of Defense pursuant to section 2012 of title 10, United States Code.

[SEC. 8057. During the current fiscal year, in the case of an appropriation account of the Department of Defense for which the period of availability for obligation has expired or which has closed under the provisions of section 1552 of title 31, United States Code, and which has a negative unliquidated or unexpended balance, an obligation or an adjustment of an obligation may be charged to any current appropriation account for the same purpose as the expired or closed account if—

[(1) the obligation would have been properly chargeable (except as to amount) to the expired or closed account before the end of the period of availability or closing of that account;

[(2) the obligation is not otherwise properly chargeable to any current appropriation account of the Department of Defense; and

[(3) in the case of an expired account, the obligation is not chargeable to a current appropriation of the Department of Defense under the provisions of section 1405(b)(8) of the National Defense Authorization Act for Fiscal Year 1991, Public Law 101–510, as amended (31 U.S.C. 1551 note): *Provided*, That in the case of an expired account, if subsequent review or investigation discloses that there was not in fact a negative unliquidated or unexpended balance in the account, any charge to a current account under the authority of this section shall be reversed and recorded against the expired account: *Provided further*, That the total amount charged to a current appropriation under this section may not exceed an amount equal to 1 percent of the total appropriation for that account.

[SEC. 8058. (a) Notwithstanding any other provision of law, the Chief of the National Guard Bureau may permit the use of equipment of the National Guard Distance Learning Project by any person or entity on a space-available, reimbursable basis. The Chief of the National Guard Bureau shall establish the amount of reimbursement for such use on a case-by-case basis.

[(b) Amounts collected under subsection (a) shall be credited to funds available for the National Guard Distance Learning Project and be available to defray the costs associated with the use of equipment of the

project under that subsection. Such funds shall be available for such purposes without fiscal year limitation.

[SEC. 8059. Using funds available by this Act or any other Act, the Secretary of the Air Force, pursuant to a determination under section 2690 of title 10, United States Code, may implement cost-effective agreements for required heating facility modernization in the Kaiserslautern Military Community in the Federal Republic of Germany: *Provided*, That in the City of Kaiserslautern such agreements will include the use of United States anthracite as the base load energy for municipal district heat to the United States Defense installations: *Provided further*, That at Landstuhl Army Regional Medical Center and Ramstein Air Base, furnished heat may be obtained from private, regional or municipal services, if provisions are included for the consideration of United States coal as an energy source.

[SEC. 8060. None of the funds appropriated in title IV of this Act may be used to procure end-items for delivery to military forces for operational training, operational use or inventory requirements: *Provided*, That this restriction does not apply to end-items used in development, prototyping, and test activities preceding and leading to acceptance for operational use: *Provided further*, That this restriction does not apply to programs funded within the National Intelligence Program: *Provided further*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so.

[SEC. 8061. None of the funds made available in this Act may be used to approve or license the sale of the F/A–22 advanced tactical fighter to any foreign government.

[SEC. 8062. (a) The Secretary of Defense may, on a case-by-case basis, waive with respect to a foreign country each limitation on the procurement of defense items from foreign sources provided in law if the Secretary determines that the application of the limitation with respect to that country would invalidate cooperative programs entered into between the Department of Defense and the foreign country, or would invalidate reciprocal trade agreements for the procurement of defense items entered into under section 2531 of title 10, United States Code, and the country does not discriminate against the same or similar defense items produced in the United States for that country.

[(b) Subsection (a) applies with respect to—

[(1) contracts and subcontracts entered into on or after the date of the enactment of this Act; and

[(2) options for the procurement of items that are exercised after such date under contracts that are entered into before such date if the option prices are adjusted for any reason other than the application of a waiver granted under subsection (a).

[(c) Subsection (a) does not apply to a limitation regarding construction of public vessels, ball and roller bearings, food, and clothing or textile materials as defined by section 11 (chapters 50–65) of the Harmonized Tariff Schedule and products classified under headings 4010, 4202, 4203, 6401 through 6406, 6505, 7019, 7218 through 7229, 7304.41 through 7304.49, 7306.40, 7502 through 7508, 8105, 8108, 8109, 8211, 8215, and 9404.

[SEC. 8063. (a) PROHIBITION.—None of the funds made available by this Act may be used to support any training program involving a unit of the security forces of a foreign country if the Secretary of Defense has received credible information from the Department of State that the unit has committed a gross violation of human rights, unless all necessary corrective steps have been taken.

[(b) MONITORING.—The Secretary of Defense, in consultation with the Secretary of State, shall ensure that prior to a decision to conduct any training program referred to in subsection (a), full consideration is given to all credible information available to the Department of State relating to human rights violations by foreign security forces.

[(c) WAIVER.—The Secretary of Defense, after consultation with the Secretary of State, may waive the prohibition in subsection (a) if he determines that such waiver is required by extraordinary circumstances.

[(d) REPORT.—Not more than 15 days after the exercise of any waiver under subsection (c), the Secretary of Defense shall submit a report to the congressional defense committees describing the extraordinary circumstances, the purpose and duration of the training program, the United States forces and the foreign security forces involved in the training program, and the information relating to human rights violations that necessitates the waiver.

[SEC. 8064. None of the funds appropriated or made available in this Act to the Department of the Navy shall be used to develop, lease or procure the T-AKE class of ships unless the main propulsion diesel engines and propulsors are manufactured in the United States by a domestically operated entity: *Provided*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes or there exists a significant cost or quality difference.

[SEC. 8065. None of the funds appropriated or otherwise made available by this or other Department of Defense Appropriations Acts may be obligated or expended for the purpose of performing repairs or maintenance to military family housing units of the Department of Defense, including areas in such military family housing units that may be used for the purpose of conducting official Department of Defense business.

[SEC. 8066. Notwithstanding any other provision of law, funds appropriated in this Act under the heading ''Research, Development, Test and Evaluation, Defense-Wide'' for any new start advanced concept technology demonstration project may only be obligated 30 days after a report, including a description of the project, the planned acquisition and transition strategy and its estimated annual and total cost, has been provided in writing to the congressional defense committees: *Provided*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying to the congressional defense committees that it is in the national interest to do so.

[SEC. 8067. The Secretary of Defense shall provide a classified quarterly report to the House and Senate Appropriations Committees, Subcommittees on Defense on certain matters as directed in the classified annex accompanying this Act.

[SEC. 8068. During the current fiscal year, refunds attributable to the use of the Government travel card, refunds attributable to the use of the Government Purchase Card and refunds attributable to official Government travel arranged by Government Contracted Travel Management Centers may be credited to operation and maintenance, and research, development, test and evaluation accounts of the Department of Defense which are current when the refunds are received.

[SEC. 8069. (a) REGISTERING FINANCIAL MANAGEMENT INFORMATION TECHNOLOGY SYSTEMS WITH DOD CHIEF INFORMATION OFFICER.—None of the funds appropriated in this Act may be used for a mission critical or mission essential financial management information technology system (including a system funded by the defense working capital fund) that is not registered with the Chief Information Officer of the Department of Defense. A system shall be considered to be registered with that officer upon the furnishing to that officer of notice of the system, together with such information concerning the system as the Secretary of Defense may prescribe. A financial management information technology system shall be considered a mission critical or mission essential information technology system as defined by the Under Secretary of Defense (Comptroller).

[(b) CERTIFICATIONS AS TO COMPLIANCE WITH FINANCIAL MANAGEMENT MODERNIZATION PLAN.—

[(1) During the current fiscal year, a financial management automated information system, a mixed information system supporting financial and non-financial systems, or a system improvement of more than $1,000,000 may not receive Milestone A approval, Milestone B approval, or full rate production, or their equivalent, within the Department of Defense until the Under Secretary of Defense (Comptroller) certifies, with respect to that milestone, that the system is being developed and managed in accordance with the Department's Financial Management Modernization Plan. The Under Secretary of Defense (Comptroller) may require additional certifications, as appropriate, with respect to any such system.

[(2) The Chief Information Officer shall provide the congressional defense committees timely notification of certifications under paragraph (1).

[(c) CERTIFICATIONS AS TO COMPLIANCE WITH CLINGER-COHEN ACT.—

[(1) During the current fiscal year, a major automated information system may not receive Milestone A approval, Milestone B approval, or full rate production approval, or their equivalent, within the Department of Defense until the Chief Information Officer certifies, with respect to that milestone, that the system is being developed in accordance with the Clinger-Cohen Act of 1996 (40 U.S.C. 1401 et seq.). The Chief Information Officer may require additional certifications, as appropriate, with respect to any such system.

[(2) The Chief Information Officer shall provide the congressional defense committees timely notification of certifications under paragraph (1). Each such notification shall include, at a minimum, the funding baseline and milestone schedule for each system covered by such a certification and confirmation that the following steps have been taken with respect to the system:

[(A) Business process reengineering.

[(B) An analysis of alternatives.

[(C) An economic analysis that includes a calculation of the return on investment.

[(D) Performance measures.

[(E) An information assurance strategy consistent with the Department's Global Information Grid.

[(d) DEFINITIONS.—For purposes of this section:

[(1) The term ''Chief Information Officer'' means the senior official of the Department of Defense designated by the Secretary of Defense pursuant to section 3506 of title 44, United States Code.

[(2) The term ''information technology system'' has the meaning given the term ''information technology'' in section 5002 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401).

[SEC. 8070. During the current fiscal year, none of the funds available to the Department of Defense may be used to provide support to another department or agency of the

United States if such department or agency is more than 90 days in arrears in making payment to the Department of Defense for goods or services previously provided to such department or agency on a reimbursable basis: *Provided*, That this restriction shall not apply if the department is authorized by law to provide support to such department or agency on a nonreimbursable basis, and is providing the requested support pursuant to such authority: *Provided further*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so.

[SEC. 8071. None of the funds provided in this Act may be used to transfer to any nongovernmental entity ammunition held by the Department of Defense that has a centerfire cartridge and a United States military nomenclature designation of ''armor penetrator'', ''armor piercing (AP)'', ''armor piercing incendiary (API)'', or ''armor-piercing incendiary-tracer (API–T)'', except to an entity performing demilitarization services for the Department of Defense under a contract that requires the entity to demonstrate to the satisfaction of the Department of Defense that armor piercing projectiles are either: (1) rendered incapable of reuse by the demilitarization process; or (2) used to manufacture ammunition pursuant to a contract with the Department of Defense or the manufacture of ammunition for export pursuant to a License for Permanent Export of Unclassified Military Articles issued by the Department of State.

[SEC. 8072. Notwithstanding any other provision of law, the Chief of the National Guard Bureau, or his designee, may waive payment of all or part of the consideration that otherwise would be required under 10 U.S.C. 2667, in the case of a lease of personal property for a period not in excess of 1 year to any organization specified in 32 U.S.C. 508(d), or any other youth, social, or fraternal non-profit organization as may be approved by the Chief of the National Guard Bureau, or his designee, on a case-by-case basis.

[SEC. 8073. None of the funds appropriated by this Act shall be used for the support of any nonappropriated funds activity of the Department of Defense that procures malt beverages and wine with nonappropriated funds for resale (including such alcoholic beverages sold by the drink) on a military installation located in the United States unless such malt beverages and wine are procured within that State, or in the case of the District of Columbia, within the District of Columbia, in which the military installation is located: *Provided*, That in a case in which the military installation is located in more than one State, purchases may be made in any State in which the installation is located: *Provided further*, That such local procurement requirements for malt beverages and wine shall apply to all alcoholic beverages only for military installations in States which are not contiguous with another State: *Provided further*, That alcoholic beverages other than wine and malt beverages, in contiguous States and the District of Columbia shall be procured from the most competitive source, price and other factors considered.

[SEC. 8074. Funds available to the Department of Defense for the Global Positioning System during the current fiscal year may be used to fund civil requirements associated with the satellite and ground control segments of such system's modernization program.

[(INCLUDING TRANSFER OF FUNDS)

[SEC. 8075. (a) Of the amounts appropriated in this Act under the heading, ''Research, Development, Test and Evaluation, Defense-Wide'', $90,000,000 shall remain available until expended: *Provided*, That notwithstanding any other provision of law, the Secretary of Defense is authorized to transfer such funds to other activities of the Federal Government.

[(b) Of the amounts appropriated in this Act under the heading, ''Operation and Maintenance, Army'', $147,900,000 shall remain available until expended: *Provided*, That notwithstanding any other provision of law, the Secretary of Defense is authorized to transfer such funds to other activities of the Federal Government: *Provided further*, That the Secretary of Defense is authorized to enter into and carry out contracts for the acquisition of real property, construction, personal services, and operations related to projects described in further detail in the Classified Annex accompanying the Department of Defense Appropriations Act, 2006, consistent with the terms and conditions set forth therein: *Provided further*, That contracts entered into under the authority of this section may provide for such indemnification as the Secretary determines to be necessary: *Provided further*, That projects authorized by this section shall comply with applicable Federal, State, and local law to the maximum extent consistent with the national security, as determined by the Secretary of Defense.

[SEC. 8076. Section 8106 of the Department of Defense Appropriations Act, 1997 (titles I through VIII of the matter under subsection 101(b) of Public Law 104–208; 110 Stat. 3009–111; 10 U.S.C. 113 note) shall continue in effect to apply to disbursements that are made by the Department of Defense in fiscal year 2006.

[SEC. 8077. In addition to amounts provided elsewhere in this Act, $2,500,000 is hereby appropriated to the Department of Defense, to remain available for obligation until expended: *Provided*, That notwithstanding any other provision of law, these funds shall be available only for a grant to the Fisher House Foundation, Inc., only for the construction and furnishing of additional Fisher Houses to meet the needs of military family members when confronted with the illness or hospitalization of an eligible military beneficiary.

[SEC. 8078. Amounts appropriated in title II of this Act are hereby reduced by $264,630,000 to reflect savings attributable to efficiencies and management improvements in the funding of miscellaneous or other contracts in the military departments, as follows:

[(1) From ''Operation and Maintenance, Army'', $12,734,000.

[(2) From ''Operation and Maintenance, Navy'', $91,725,000.

[(3) From ''Operation and Maintenance, Marine Corps'', $1,870,000.

[(4) From ''Operation and Maintenance, Air Force'', $158,301,000.

[SEC. 8079. The total amount appropriated or otherwise made available in this Act is hereby reduced by $167,000,000 to limit excessive growth in the procurement of advisory and assistance services, to be distributed as follows:

[''Operation and Maintenance, Army'', $24,000,000.

[''Operation and Maintenance, Navy'', $19,000,000.

[''Operation and Maintenance, Air Force'', $74,000,000.

[''Operation and Maintenance, Defense-Wide'', $50,000,000.

[(INCLUDING TRANSFER OF FUNDS)

[SEC. 8080. Of the amounts appropriated in this Act under the heading ''Research, Development, Test and Evaluation, Defense-Wide'', $77,616,000 shall be made available for the Arrow missile defense program: *Provided*, That of this amount, $15,000,000 shall be available for the purpose of producing Arrow missile components in the United States and Arrow missile components and missiles in Israel to meet Israel's defense requirements, consistent with each nation's laws, regulations and procedures: *Provided further*, That funds made available under this provision for production of missiles and missile components may be transferred to appropriations available for the procurement of weapons and equipment, to be merged with and to be available for the same time period and the same purposes as the appropriation to which transferred: *Provided further*, That the transfer authority provided under this provision is in addition to any other transfer authority contained in this Act.

[(INCLUDING TRANSFER OF FUNDS)

[SEC. 8081. Of the amounts appropriated in this Act under the heading ''Shipbuilding and Conversion, Navy'', $394,523,000 shall be available until September 30, 2006, to fund prior year shipbuilding cost increases: *Provided*, That upon enactment of this Act, the Secretary of the Navy shall transfer such funds to the following appropriations in the amounts specified: *Provided further*, That the amounts transferred shall be merged with and be available for the same purposes as the appropriations to which transferred:

[To: Under the heading, ''Shipbuilding and Conversion, Navy, 1998/2007'':

[NSSN, $28,000,000.

[Under the heading, ''Shipbuilding and Conversion, Navy, 1999/2009'':

[LPD–17 Amphibious Transport Dock Ship, $25,000,000; and

[NSSN, $72,000,000.

[Under the heading, ''Shipbuilding and Conversion, Navy, 2000/2009'':

[LPD–17 Amphibious Transport Dock Ship, $41,800,000.

[Under the heading, ''Shipbuilding and Conversion, Navy, 2001/2007'':

[Carrier Replacement Program, $145,023,000; and

[NSSN, $82,700,000.

[SEC. 8082. The Secretary of the Navy may settle, or compromise, and pay any and all admiralty claims under 10 U.S.C. 7622 arising out of the collision involving the U.S.S. GREENEVILLE and the EHIME MARU, in any amount and without regard to the monetary limitations in subsections (a) and (b) of that section: *Provided*, That such payments shall be made from funds available to the Department of the Navy for operation and maintenance.

[SEC. 8083. Notwithstanding any other provision of law or regulation, the Secretary of Defense may exercise the provisions of 38 U.S.C. 7403(g) for occupations listed in 38 U.S.C. 7403(a)(2) as well as the following:

[Pharmacists, Audiologists, and Dental Hygienists.

[(A) The requirements of 38 U.S.C. 7403(g)(1)(A) shall apply.

[(B) The limitations of 38 U.S.C. 7403(g)(1)(B) shall not apply.

[SEC. 8084. Funds appropriated by this Act, or made available by the transfer of funds in this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2006 until the enactment of the Intelligence Authorization Act for fiscal year 2006.

[SEC. 8085. None of the funds in this Act may be used to initiate a new start program without prior written notification to the Office of Secretary of Defense and the congressional defense committees.

[SEC. 8086. The amounts appropriated in title II of this Act are hereby reduced by

$250,000,000 to reflect cash balance and rate stabilization adjustments in Department of Defense Working Capital Funds, as follows:

[(1) From ''Operation and Maintenance, Army'', $107,000,000.

[(2) From ''Operation and Maintenance, Air Force'', $143,000,000.

[SEC. 8087. (a) In addition to the amounts provided elsewhere in this Act, the amount of $6,000,000 is hereby appropriated to the Department of Defense for ''Operation and Maintenance, Army National Guard''. Such amount shall be made available to the Secretary of the Army only to make a grant in the amount of $6,000,000 to the entity specified in subsection (b) to facilitate access by veterans to opportunities for skilled employment in the construction industry.

[(b) The entity referred to in subsection (a) is the Center for Military Recruitment, Assessment and Veterans Employment, a nonprofit labor-management co-operation committee provided for by section 302(c)(9) of the Labor-Management Relations Act, 1947 (29 U.S.C. 186(c)(9)), for the purposes set forth in section 6(b) of the Labor Management Cooperation Act of 1978 (29 U.S.C. 175a note).

[SEC. 8088. FINANCING AND FIELDING OF KEY ARMY CAPABILITIES.—The Department of Defense and the Department of the Army shall make future budgetary and programming plans to fully finance the Non-Line of Sight Future Force cannon and resupply vehicle program (NLOS–C) in order to field this system in fiscal year 2010, consistent with the broader plan to field the Future Combat System (FCS) in fiscal year 2010: *Provided*, That if the Army is precluded from fielding the FCS program by fiscal year 2010, then the Army shall develop the NLOS–C independent of the broader FCS development timeline to achieve fielding by fiscal year 2010. In addition the Army will deliver eight (8) combat operational pre-production NLOS–C systems by the end of calendar year 2008. These systems shall be in addition to those systems necessary for developmental and operational testing: *Provided further*, That the Army shall ensure that budgetary and programmatic plans will provide for no fewer than seven (7) Stryker Brigade Combat Teams.

[SEC. 8089. In addition to the amounts appropriated or otherwise made available elsewhere in this Act, $14,400,000 is hereby appropriated to the Department of Defense, to remain available until September 30, 2006: *Provided*, That the Secretary of Defense shall make grants in the amounts specified as follows: $4,500,000 to the Intrepid Sea-Air-Space Foundation; $1,000,000 to the Pentagon Memorial Fund, Inc.; $4,400,000 to the Center for Applied Science and Technologies at Jordan Valley Innovation Center; $1,000,000 to the Vietnam Veterans Memorial Fund for the Teach Vietnam initiative; $500,000 for the Westchester County World Trade Center Memorial; $1,000,000 for the Women in Military Service for America Memorial Foundation; and $2,000,000 to the Presidio Trust.

[SEC. 8090. None of the funds appropriated in this Act under the heading ''Overseas Contingency Operations Transfer Account'' may be transferred or obligated for Department of Defense expenses not directly related to the conduct of overseas contingencies: *Provided*, That the Secretary of Defense shall submit a report no later than 30 days after the end of each fiscal quarter to the Committees on Appropriations of the Senate and House of Representatives that details any transfer of funds from the ''Overseas Contingency Operations Transfer Account'': *Provided further*, That the report shall explain any transfer for the maintenance of real property, pay of civilian personnel, base operations support, and weapon, vehicle or equipment maintenance.

[SEC. 8091. For purposes of section 1553(b) of title 31, United States Code, any subdivision of appropriations made in this Act under the heading ''Shipbuilding and Conversion, Navy'' shall be considered to be for the same purpose as any subdivision under the heading ''Shipbuilding and Conversion, Navy'' appropriations in any prior fiscal year, and the 1 percent limitation shall apply to the total amount of the appropriation.

[SEC. 8092. The budget of the President for fiscal year 2007 submitted to the Congress pursuant to section 1105 of title 31, United States Code shall include separate budget justification documents for costs of United States Armed Forces' participation in contingency operations for the Military Personnel accounts, the Operation and Maintenance accounts, and the Procurement accounts: *Provided*, That these documents shall include a description of the funding requested for each contingency operation, for each military service, to include all Active and Reserve components, and for each appropriations account: *Provided further*, That these documents shall include estimated costs for each element of expense or object class, a reconciliation of increases and decreases for each contingency operation, and programmatic data including, but not limited to, troop strength for each Active and Reserve component, and estimates of the major weapons systems deployed in support of each contingency: *Provided further*, That these documents shall include budget exhibits OP–5 and OP–32 (as defined in the Department of Defense Financial Management Regulation) for all contingency operations for the budget year and the two preceding fiscal years.

[SEC. 8093. None of the funds in this Act may be used for research, development, test, evaluation, procurement or deployment of nuclear armed interceptors of a missile defense system.

[SEC. 8094. Of the amounts provided in title II of this Act under the heading, ''Operation and Maintenance, Defense-Wide'', $20,000,000 is available for the Regional Defense Counter-terrorism Fellowship Program, to fund the education and training of foreign military officers, ministry of defense civilians, and other foreign security officials, to include United States military officers and civilian officials whose participation directly contributes to the education and training of these foreign students.

[SEC. 8095. None of the funds appropriated or made available in this Act shall be used to reduce or disestablish the operation of the 53rd Weather Reconnaissance Squadron of the Air Force Reserve, if such action would reduce the WC–130 Weather Reconnaissance mission below the levels funded in this Act: *Provided*, That the Air Force shall allow the 53rd Weather Reconnaissance Squadron to perform other missions in support of national defense requirements during the non-hurricane season.

[SEC. 8096. None of the funds provided in this Act shall be available for integration of foreign intelligence information unless the information has been lawfully collected and processed during the conduct of authorized foreign intelligence activities: *Provided*, That information pertaining to United States persons shall only be handled in accordance with protections provided in the Fourth Amendment of the United States Constitution as implemented through Executive Order No. 12333.

[SEC. 8097. (a) From within amounts made available in title II of this Act under the heading ''Operation and Maintenance, Army'' $4,500,000 is only for an additional amount for the project for which funds were appropriated in section 8103 of Public Law 106–79, for the same purposes, which shall remain available until expended: *Provided*, That no funds in this or any other Act, nor non-appropriated funds, may be used to operate recreational facilities (such as the officers club, golf course, or bowling alleys) at Ft. Irwin, California, if such facilities provide services to Army officers of the grade O–7 or higher, until such time as the project in the previous proviso has been fully completed.

[(b) From within amounts made available in title II of this Act under the heading ''Operation and Maintenance, Marine Corps'', the Secretary of the Navy shall make a grant in the amount of $2,000,000, notwithstanding any other provision of law, to the City of Twentynine Palms, California, for the widening of off-base Adobe Road, which is used by members of the Marine Corps stationed at the Marine Corps Air Ground Task Force Training Center, Twentynine Palms, California, and their dependents, and for construction of pedestrian and bike lanes for the road, to provide for the safety of the Marines stationed at the installation.

[SEC. 8098. (a) At the time members of reserve components of the Armed Forces are called or ordered to active duty under section 12302(a) of title 10, United States Code, each member shall be notified in writing of the expected period during which the member will be mobilized.

[(b) The Secretary of Defense may waive the requirements of subsection (a) in any case in which the Secretary determines that it is necessary to do so to respond to a national security emergency or to meet dire operational requirements of the Armed Forces.

[(INCLUDING TRANSFER OF FUNDS)

[SEC. 8099. The Secretary of the Navy may transfer funds from any available Department of the Navy appropriation to any available Navy ship construction appropriation for the purpose of liquidating necessary changes resulting from inflation, market fluctuations, or rate adjustments for any ship construction program appropriated in law: *Provided*, That the Secretary may transfer not to exceed $100,000,000 under the authority provided by this section: *Provided further*, That the funding transferred shall be available for the same time period as the appropriation to which transferred: *Provided further*, That the Secretary may not transfer any funds until 30 days after the proposed transfer has been reported to the Committee on Appropriations of the Senate and the House of Representatives, unless sooner notified by the Committees that there is no objection to the proposed transfer: *Provided further*, That the transfer authority provided by this section is in addition to any other transfer authority contained elsewhere in this Act.

[SEC. 8100. (a) The total amount appropriated or otherwise made available in title II of this Act is hereby reduced by $147,000,000 to limit excessive growth in the travel and transportation of persons.

[(b) The Secretary of Defense shall allocate this reduction proportionately to each budget activity, activity group, subactivity group, and each program, project, and activity within each applicable appropriation account.

[SEC. 8101. Of the funds appropriated or otherwise made available in this Act, a reduction of $176,500,000 is hereby taken from title III, Procurement, from the following accounts in the specified amounts:

[''Missile Procurement, Army'', $9,000,000.

[''Other Procurement, Army'', $112,500,000.

[''Procurement, Marine Corps'', $55,000,000: *Provided*, That within 30 days of enactment of this Act, the Secretary of the Army and

the Secretary of the Navy shall provide a report to the House Committee on Appropriations and the Senate Committee on Appropriations which describes the application of these reductions to programs, projects or activities within these accounts.

[(INCLUDING TRANSFER OF FUNDS)

[SEC. 8102. (a) THREE-YEAR EXTENSION.—During the current fiscal year and each of fiscal years 2007 and 2008, the Secretary of Defense may transfer not more than $20,000,000 of unobligated balances remaining in the expiring RDT&E, Army, appropriation account to a current Research, Development, Test and Evaluation, Army, appropriation account to be used only for the continuation of the Army Venture Capital Fund demonstration.

[(b) EXPIRING RDT&E, ARMY, ACCOUNT.—For purposes of this section, for any fiscal year, the expiring RDT&E, Army, account is the Research, Development, Test and Evaluation, Army, appropriation account that is then in its last fiscal year of availability for obligation before the account closes under section 1552 of title 31, United States Code.

[(c) ARMY VENTURE CAPITAL FUND DEMONSTRATION.—For purposes of this section, the Army Venture Capital Fund demonstration is the program for which funds were initially provided in section 8150 of the Department of Defense Appropriations Act, 2002 (division A of Public Law 107–117; 115 Stat. 2281), as extended and revised in section 8105 of Department of Defense Appropriations Act, 2003 (Public Law 107–248; 116 Stat. 1562).

[(d) ADMINISTRATIVE PROVISIONS.—The provisos in section 8105 of the Department of Defense Appropriations Act, 2003 (Public Law 107–248; 116 Stat. 1562), shall apply with respect to amounts transferred under this section in the same manner as to amounts transferred under that section.

[TITLE IX

[ADDITIONAL APPROPRIATIONS

[MILITARY PERSONNEL

[MILITARY PERSONNEL, ARMY

[For an additional amount for ''Military Personnel, Army'', $5,877,400,000: *Provided,* That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[MILITARY PERSONNEL, NAVY

[For an additional amount for ''Military Personnel, Navy'', $282,000,000: *Provided,* That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[MILITARY PERSONNEL, MARINE CORPS

[For an additional amount for ''Military Personnel, Marine Corps'', $667,800,000: *Provided,* That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[MILITARY PERSONNEL, AIR FORCE

[For an additional amount for ''Military Personnel, Air Force'', $982,800,000: *Provided,* That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[RESERVE PERSONNEL, ARMY

[For an additional amount for ''Reserve Personnel, Army'', $138,755,000: *Provided,* That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[NATIONAL GUARD PERSONNEL, ARMY

[For an additional amount for ''National Guard Personnel, Army'', $67,000,000: *Provided,* That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[OPERATION AND MAINTENANCE

[OPERATION AND MAINTENANCE, ARMY

[For an additional amount for ''Operation and Maintenance, Army'', $20,398,450,000: *Provided,* That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[OPERATION AND MAINTENANCE, NAVY

[For an additional amount for ''Operation and Maintenance, Navy'', $1,907,800,000: *Provided,* That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[OPERATION AND MAINTENANCE, MARINE CORPS

[For an additional amount for ''Operation and Maintenance, Marine Corps'', $1,827,150,000: *Provided,* That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[OPERATION AND MAINTENANCE, AIR FORCE

[For an additional amount for ''Operation and Maintenance, Air Force'', $3,559,900,000: *Provided,* That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[OPERATION AND MAINTENANCE, DEFENSE-WIDE

[For an additional amount for ''Operation and Maintenance, Defense-Wide'', $826,000,000: *Provided,* That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[IRAQ FREEDOM FUND

[(INCLUDING TRANSFER OF FUNDS)

[For an additional amount for ''Iraq Freedom Fund'', $3,500,000,000, to remain available for transfer until September 30, 2007, only to support operations in Iraq or Afghanistan and classified activities: *Provided,* That the Secretary of Defense may transfer the funds provided herein to appropriations for military personnel; operation and maintenance; Overseas Humanitarian, Disaster, and Civic Aid; procurement; research, development, test and evaluation; and working capital funds: *Provided further,* That of the amounts provided under this heading, not less than $2,500,000,000 shall be for classified programs, which shall be in addition to amounts provided for elsewhere in this Act: *Provided further,* That funds transferred shall be merged with and be available for the same purposes and for the same time period as the appropriation or fund to which transferred: *Provided further,* That this transfer authority is in addition to any other transfer authority available to the Department of Defense: *Provided further,* That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further,* That the Secretary of Defense shall, not fewer than 5 days prior to making transfers from this appropriation, notify the congressional defense committees in writing of the details of any such transfer: *Provided further,* That the Secretary shall submit a report no later than 30 days after the end of each fiscal quarter to the congressional defense committees summarizing the details of the transfer of funds from this appropriation: *Provided further,* That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[OPERATION AND MAINTENANCE, ARMY RESERVE

[For an additional amount for ''Operation and Maintenance, Army Reserve'', $35,700,000: *Provided,* That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

[For an additional amount for ''Operation and Maintenance, Marine Corps Reserve'', $23,950,000: *Provided,* That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

[For an additional amount for ''Operation and Maintenance, Army National Guard'', $159,500,000: *Provided,* That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[PROCUREMENT

[PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

[For an additional amount for ''Procurement of Weapons and Tracked Combat Vehicles, Army'', $455,427,000, to remain available until September 30, 2008: *Provided,* That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[PROCUREMENT OF AMMUNITION, ARMY

[For an additional amount for ''Procurement of Ammunition, Army'', $13,900,000, to

remain available until September 30, 2008: *Provided,* That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[OTHER PROCUREMENT, ARMY

[For an additional amount for ''Other Procurement, Army'', $1,501,270,000, to remain available until September 30, 2008: *Provided,* That of the amount provided in this paragraph, not less than $200,370,000 shall be available only for the Army Reserve: *Provided further,* That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[WEAPONS PROCUREMENT, NAVY

[For an additional amount for ''Weapons Procurement, Navy'', $81,696,000, to remain available until September 30, 2008: *Provided,* That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS

[For an additional amount for ''Procurement of Ammunition, Navy and Marine Corps'', $144,721,000, to remain available until September 30, 2008: *Provided,* That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[OTHER PROCUREMENT, NAVY

[For an additional amount for ''Other Procurement, Navy'', $48,800,000, to remain available until September 30, 2008: *Provided,* That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[PROCUREMENT, MARINE CORPS

[For an additional amount for ''Procurement, Marine Corps'', $389,900,000, to remain available until September 30, 2008: *Provided,* That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[AIRCRAFT PROCUREMENT, AIR FORCE

[For an additional amount for ''Aircraft Procurement, Air Force'', $115,300,000, to remain available until September 30, 2008: *Provided,* That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[OTHER PROCUREMENT, AIR FORCE

[For an additional amount for ''Other Procurement, Air Force'', $2,400,000, to remain available until September 30, 2008: *Provided,* That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[PROCUREMENT, DEFENSE-WIDE

[For an additional amount for ''Procurement, Defense-Wide'', $103,900,000, to remain available until September 30, 2008: *Provided,* That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[RESEARCH, DEVELOPMENT, TEST AND EVALUATION

[RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

[For an additional amount for ''Research, Development, Test and Evaluation, Navy'', $13,100,000, to remain available until September 30, 2007: *Provided,* That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

[For an additional amount for ''Research, Development, Test and Evaluation, Defense-Wide'', $75,000,000, to remain available until September 30, 2007: *Provided,* That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[REVOLVING AND MANAGEMENT FUNDS

[DEFENSE WORKING CAPITAL FUNDS

[For an additional amount for ''Defense Working Capital Funds'', $2,055,000,000: *Provided,* That the amount provided under this heading is designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[TITLE IX

[GENERAL PROVISIONS

[SEC. 9001. Appropriations provided in this title are available for obligation until September 30, 2006, unless otherwise so provided in this title.

[SEC. 9002. Notwithstanding any other provision of law or of this Act, funds made available in this title are in addition to amounts provided elsewhere in this Act.

[(TRANSFER OF FUNDS)

[SEC. 9003. Upon his determination that such action is necessary in the national interest, the Secretary of Defense may transfer between appropriations up to $2,500,000,000 of the funds made available to the Department of Defense in this title: *Provided,* That the Secretary shall notify the Congress promptly of each transfer made pursuant to the authority in this section: *Provided further,* That the authority provided in this section is in addition to any other transfer authority available to the Department of Defense and is subject to the same terms and conditions as the authority provided in section 8005 of this Act: *Provided further,* That the amounts transferred under the authority of this section are designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

[SEC. 9004. Funds appropriated in this title, or made available by the transfer of funds in or pursuant to this title, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2006 until the enactment of the Intelligence Authorization Act for fiscal year 2006.

[SEC. 9005. None of the funds provided in this title may be used to finance programs or activities denied by Congress in fiscal years 2005 or 2006 appropriations to the Department of Defense or to initiate a procurement or research, development, test and evaluation new start program without prior written notification to the congressional defense committees.

[SEC. 9006. Notwithstanding any other provision of law, funds made available in this title to the Department of Defense for operation and maintenance may be used by the Secretary of Defense, with the concurrence of the Secretary of State, to train, equip and provide related assistance only to military or security forces of Iraq and Afghanistan to enhance their capability to combat terrorism and to support United States military operations in Iraq and Afghanistan: *Provided,* That such assistance may include the provision of equipment, supplies, services, training, and funding: *Provided further,* That the authority to provide assistance under this section is in addition to any other authority to provide assistance to foreign nations: *Provided further,* That the Secretary of Defense shall notify the congressional defense committees, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate not less than 15 days before providing assistance under the authority of this section.

[SEC. 9007. (a) FISCAL YEAR 2006 AUTHORITY.—During the current fiscal year, from funds made available to the Department of Defense for operation and maintenance pursuant to title IX, not to exceed $500,000,000 may be used by the Secretary of Defense to provide funds—

[(1) for the Commanders' Emergency Response Program established by the Administrator of the Coalition Provisional Authority for the purpose of enabling United States military commanders in Iraq to respond to urgent humanitarian relief and reconstruction requirements within their areas of responsibility by carrying out programs that will immediately assist the Iraqi people; and

[(2) for a similar program to assist the people of Afghanistan.

[(b) QUARTERLY REPORTS.—Not later than 15 days after the end of each fiscal year quarter, the Secretary of Defense shall submit to the congressional defense committees a report regarding the source of funds and the allocation and use of funds during that quarter that were made available pursuant to the authority provided in this section or under any other provision of law for the purposes stated in subsection (a).

[(c) LIMITATION ON USE OF FUNDS.—Funds authorized for the Commanders' Emergency Response Program by this section may not be used to provide goods, services, or funds to national armies, national guard forces, border security forces, civil defense forces, infrastructure protection forces, highway patrol units, police, special police, or intelligence or other security forces.

[(d) SECRETARY OF DEFENSE GUIDANCE.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall issue to the commander of the United States Central Command detailed guidance concerning the types of activities

for which United States military commanders in Iraq may use funds under the Commanders' Emergency Response Program to respond to urgent relief and reconstruction requirements and the terms under which such funds may be expended. The Secretary shall simultaneously provide a copy of that guidance to the congressional defense committees.

[SEC. 9008. During the current fiscal year, funds available to the Department of Defense for operation and maintenance may be used, notwithstanding any other provision of law, to provide supplies, services, transportation, including airlift and sealift, and other logistical support to coalition forces supporting military and stability operations in Iraq and Afghanistan: *Provided*, That the Secretary of Defense shall provide quarterly reports to the congressional defense committees regarding support provided under this section.

[SEC. 9009. Congress, consistent with international and United States law, reaffirms that torture of prisoners of war and detainees is illegal and does not reflect the policies of the United States Government or the values of the people of the United States.

[SEC. 9010. The reporting requirements of section 9010 of Public Law 108–287 regarding the military operations of the Armed Forces and the reconstruction activities of the Department of Defense in Iraq and Afghanistan shall apply to the funds appropriated in this Act.

[SEC. 9011. The Secretary of Defense may present promotional materials, including a United States flag, to any member of an Active or Reserve component under the Secretary's jurisdiction who, as determined by the Secretary, participates in Operation Enduring Freedom or Operation Iraqi Freedom.

[SEC. 9012. SENSE OF CONGRESS AND REPORT CONCERNING RELIGIOUS FREEDOM AND TOLERANCE AT UNITED STATES AIR FORCE ACADEMY. (a) SENSE OF CONGRESS.—It is the sense of Congress that—

[(1) the expression of personal religious faith is welcome in the United States military;

[(2) the military must be a place where there is freedom for religious expression for all faiths; and

[(3) the Secretary of the Air Force and the Department of Defense Inspector General have undertaken several reviews of the issues of religious tolerance at the Air Force Academy.

[(b) REPORT.—

[(1) RECOMMENDATIONS.—The Secretary of the Air Force, based upon the reviews referred in subsection (a)(3), shall develop recommendations to maintain a positive climate of religious freedom and tolerance at the United States Air Force Academy.

[(2) SECRETARY OF AIR FORCE REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a report providing the recommendations developed pursuant to paragraph (1).

[SEC. 9013. None of the funds made available in this Act may be used in contravention of the following laws enacted or regulations promulgated to implement the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (done at New York on December 10, 1984):

[(1) Section 2340A of title 18, United States Code.

[(2) Section 2242 of the Foreign Affairs Reform and Restructuring Act of 1998 (division G of Public Law 105–277; 112 Stat. 2681–822; 8 U.S.C. 1231 note) and any regulations prescribed thereto, including regulations under part 208 of title 8, Code of Federal Regulations, and part 95 of title 22, Code of Federal Regulations.

[This Act may be cited as the ''Department of Defense Appropriations Act, 2006''.] *That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2006, for military functions administered by the Department of Defense and for other purposes, namely:*

TITLE I—MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty, (except members of reserve components provided for elsewhere), cadets, and aviation cadets; for members of the Reserve Officer's Training Corps; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, $28,099,587,000.

MILITARY PERSONNEL, NAVY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; for members of the Reserve Officer's Training Corps; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, $22,671,875,000.

MILITARY PERSONNEL, MARINE CORPS

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, $8,894,984,000.

MILITARY PERSONNEL, AIR FORCE

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; for members of the Reserve Officer's Training Corps; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, $22,908,750,000.

RESERVE PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 10211, 10302, and 3038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $3,052,269,000.

RESERVE PERSONNEL, NAVY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Navy Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $1,617,299,000.

RESERVE PERSONNEL, MARINE CORPS

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $491,601,000.

RESERVE PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 10211, 10305, and 8038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $1,263,046,000.

NATIONAL GUARD PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under section 10211, 10302, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $4,555,794,000.

NATIONAL GUARD PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under section 10211, 10305, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, $2,125,632,000.

TITLE II—OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed $11,478,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes, $24,573,795,000.

OPERATION AND MAINTENANCE, NAVY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed $6,003,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes, $30,317,964,000.

OPERATION AND MAINTENANCE, MARINE CORPS

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law, $3,780,926,000.

OPERATION AND MAINTENANCE, AIR FORCE

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law; and not to exceed $7,699,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes, $30,891,386,000.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law, $18,517,218,000: Provided, That not more than $25,000,000 may be used for the Combatant Commander Initiative Fund authorized under section 166a of title 10, United States Code, and of which not to exceed $32,000,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes: Provided further, That of the funds provided under this heading not less than $27,009,000 shall be made available for the Procurement Technical Assistance Cooperative Agreement Program, of which not less than $3,600,000 shall be available for centers defined in 10 U.S.C. 2411(1)(D): Provided further, That none of the funds appropriated or otherwise made available by this Act may be used to plan or implement the consolidation of a budget or appropriations liaison office of the Office of the Secretary of Defense, the office of the Secretary of a military department, or the service headquarters of one of the Armed Forces into a legislative affairs or legislative liaison office: Provided further, That $4,000,000, to remain available until expended, is available only for expenses relating to certain classified activities, and may be transferred as necessary by the Secretary to operation and maintenance appropriations or research, development, test and evaluation appropriations, to be merged with and to be available for the same time period as the appropriations to which transferred: Provided further, That any ceiling on the investment item unit cost of items that may be purchased with operation and maintenance funds shall not apply to the funds described in the preceding proviso: Provided further, That the transfer authority provided under this heading is in addition to any other transfer authority provided elsewhere in this Act.

OPERATION AND MAINTENANCE, ARMY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $1,956,482,000.

OPERATION AND MAINTENANCE, NAVY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $1,239,295,000.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $197,734,000.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, $2,474,286,000.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft), $4,428,119,000: Provided, That $10,000,000 shall be available for the operations and development of training and technology for the Joint Interagency Training Center-East and the affiliated Center for National Response at the Memorial Tunnel and for providing homeland defense/security and traditional warfighting training to the Department of Defense, other federal agency, and state and local first responder personnel at the Joint Interagency Training Center-East.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For expenses of training, organizing, and administering the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; transportation of things, hire of passenger motor vehicles; supplying and equipping the Air National Guard, as authorized by law; expenses for repair, modification, maintenance, and issue of supplies and equipment, including those furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau, $4,681,291,000.

UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES

For salaries and expenses necessary for the United States Court of Appeals for the Armed Forces, $11,236,000, of which not to exceed $5,000 may be used for official representation purposes.

ENVIRONMENTAL RESTORATION, ARMY

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Army, $407,865,000, to remain available until transferred: Provided, That the Secretary of the Army shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Army, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Army, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, NAVY

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Navy, $305,275,000, to remain available until transferred: Provided, That the Secretary of the Navy shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Navy, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Navy, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, AIR FORCE

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Air Force, $406,461,000, to remain available until transferred: Provided, That the Secretary of the Air Force shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Air Force, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Air Force, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, DEFENSE-WIDE

(INCLUDING TRANSFER OF FUNDS)

For the Department of Defense, $28,167,000, to remain available until transferred: Provided, That the Secretary of Defense shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of Defense, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of Defense, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, FORMERLY USED DEFENSE SITES

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Army, $271,921,000, to remain available until transferred: Provided,

That the Secretary of the Army shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris at sites formerly used by the Department of Defense, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Army, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

OVERSEAS HUMANITARIAN, DISASTER, AND CIVIC AID

For expenses relating to the Overseas Humanitarian, Disaster, and Civic Aid programs of the Department of Defense (consisting of the programs provided under sections 401, 402, 404, 2557, and 2561 of title 10, United States Code), $61,546,000, to remain available until September 30, 2007.

FORMER SOVIET UNION THREAT REDUCTION ACCOUNT

For assistance to the republics of the former Soviet Union, including assistance provided by contract or by grants, for facilitating the elimination and the safe and secure transportation and storage of nuclear, chemical and other weapons; for establishing programs to prevent the proliferation of weapons, weapons components, and weapon-related technology and expertise; for programs relating to the training and support of defense and military personnel for demilitarization and protection of weapons, weapons components and weapons technology and expertise, and for defense and military contacts, $415,549,000, to remain available until September 30, 2008: Provided, That of the amounts provided under this heading, $15,000,000 shall be available only to support the dismantling and disposal of nuclear submarines, submarine reactor components, and security enhancements for transport and storage of nuclear warheads in the Russian Far East.

TITLE III—PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $2,562,480,000, to remain available for obligation until September 30, 2008.

MISSILE PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $1,214,919,000, to remain available for obligation until September 30, 2008.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $1,359,465,000, to remain available for obligation until September 30, 2008.

PROCUREMENT OF AMMUNITION, ARMY

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $1,708,680,000, to remain available for obligation until September 30, 2008.

OTHER PROCUREMENT, ARMY

For construction, procurement, production, and modification of vehicles, including tactical, support, and non-tracked combat vehicles; the purchase of passenger motor vehicles for replacement only; and the purchase of 14 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $255,000 per vehicle; communications and electronic equipment; other support equipment; spare parts, ordnance, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $4,426,531,000, to remain available for obligation until September 30, 2008.

AIRCRAFT PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, $9,880,492,000, to remain available for obligation until September 30, 2008.

WEAPONS PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, and related support equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, $2,593,341,000, to remain available for obligation until September 30, 2008.

PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $832,791,000, to remain available for obligation until September 30, 2008.

SHIPBUILDING AND CONVERSION, NAVY

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, as follows:

Carrier Replacement Program (AP), $651,613,000;

NSSN, $1,637,698,000;

NSSN (AP), $763,786,000;

SSGN, $286,516,000;

CVN Refuelings, $1,493,563,000;

CVN Refuelings (AP), $20,000,000;

SSBN Submarine Refuelings, $230,193,000;

SSBN Submarine Refuelings (AP), $62,248,000;

DD(X) (AP), $765,992,000;

DDG–51 Destroyer, $29,773,000;

LHD–8, $197,769,000;

LPD–17, $1,344,741,000;

LHA–R, $150,447,000;

LCAC Landing Craft Air Cushion, $110,583,000;

Prior year shipbuilding costs, $517,523,000;

Service Craft, $46,055,000; and

For outfitting, post delivery, conversions, and first destination transportation, $369,387,000;

in all: $8,677,887,000, to remain available for obligation until September 30, 2010: Provided, That additional obligations may be incurred after September 30, 2010, for engineering services, tests, evaluations, and other such budgeted work that must be performed in the final stage of ship construction: Provided further, That none of the funds provided under this heading for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign facilities for the construction of major components of such vessel: Provided further, That none of the funds provided under this heading shall be used for the construction of any naval vessel in foreign shipyards.

OTHER PROCUREMENT, NAVY

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance (except ordnance for new aircraft, new ships, and ships authorized for conversion); the purchase of passenger motor vehicles for replacement only, and the purchase of 9 vehicles required for physical security of personnel, notwithstanding price

limitations applicable to passenger vehicles but not to exceed $255,000 per vehicle; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, $5,293,157,000, to remain available for obligation until September 30, 2008.

PROCUREMENT, MARINE CORPS

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; vehicles for the Marine Corps, including the purchase of passenger motor vehicles for replacement only; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, $1,361,605,000, to remain available for obligation until September 30, 2008.

AIRCRAFT PROCUREMENT, AIR FORCE

For construction, procurement, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things, $12,729,492,000, to remain available for obligation until September 30, 2008.

MISSILE PROCUREMENT, AIR FORCE

For construction, procurement, and modification of missiles, spacecraft, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things, $5,068,974,000, to remain available for obligation until September 30, 2008.

PROCUREMENT OF AMMUNITION, AIR FORCE

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, $996,111,000, to remain available for obligation until September 30, 2008.

OTHER PROCUREMENT, AIR FORCE

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of passenger motor vehicles for replacement only, and the purchase of 2 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $255,000 per vehicle; lease of passenger motor vehicles; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon, prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, $14,048,439,000, to remain available for obligation until September 30, 2008.

PROCUREMENT, DEFENSE-WIDE

For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of passenger motor vehicles for replacement only, and the purchase of 5 vehicles required for physical security of personnel, notwithstanding prior limitations applicable to passenger vehicles but not to exceed $255,000 per vehicle; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, $2,572,250,000, to remain available for obligation until September 30, 2008.

NATIONAL GUARD AND RESERVE EQUIPMENT

For procurement of aircraft, missiles, tracked combat vehicles, ammunition, other weapons, and other procurement for the reserve components of the Armed Forces, $422,000,000, to remain available for obligation until September 30, 2008: Provided, That the Chiefs of the Reserve and National Guard components shall, not later than 30 days after the enactment of this Act, individually submit to the congressional defense committees the modernization priority assessment for their respective Reserve or National Guard component.

DEFENSE PRODUCTION ACT PURCHASES

For activities by the Department of Defense pursuant to sections 108, 301, 302, and 303 of the Defense Production Act of 1950 (50 U.S.C. App. 2078, 2091, 2092, and 2093), $68,573,000, to remain available until expended.

TITLE IV—RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, $10,520,592,000, to remain available for obligation until September 30, 2007.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, $18,557,904,000, to remain available for obligation until September 30, 2007: Provided, That funds appropriated in this paragraph which are available for the V–22 may be used to meet unique operational requirements of the Special Operations Forces: Provided further, That funds appropriated in this paragraph shall be available for the Cobra Judy program.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, $21,859,010,000, to remain available for obligation until September 30, 2007.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, $19,301,618,000, to remain available for obligation until September 30, 2007.

OPERATIONAL TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, necessary for the independent activities of the Director, Operational Test and Evaluation, in the direction and supervision of operational test and evaluation, including initial operational test and evaluation which is conducted prior to, and in support of, production decisions; joint operational testing and evaluation; and administrative expenses in connection therewith, $168,458,000, to remain available for obligation until September 30, 2007.

TITLE V—REVOLVING AND MANAGEMENT FUNDS

DEFENSE WORKING CAPITAL FUNDS

For the Defense Working Capital Funds, $1,154,940,000.

NATIONAL DEFENSE SEALIFT FUND

For National Defense Sealift Fund programs, projects, and activities, and for expenses of the National Defense Reserve Fleet, as established by section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744), and for the necessary expenses to maintain and preserve a U.S.-flag merchant fleet to serve the national security needs of the United States, $579,954,000, to remain available until expended: Provided, That none of the funds provided in this paragraph shall be used to award a new contract that provides for the acquisition of any of the following major components unless such components are manufactured in the United States: auxiliary equipment, including pumps, for all shipboard services; propulsion system components (that is; engines, reduction gears, and propellers); shipboard cranes; and spreaders for shipboard cranes: Provided further, That the exercise of an option in a contract awarded through the obligation of previously appropriated funds shall not be considered to be the award of a new contract: Provided further, That the Secretary of the military department responsible for such procurement may waive the restrictions in the first proviso on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes.

TITLE VI—OTHER DEPARTMENT OF DEFENSE PROGRAMS

DEFENSE HEALTH PROGRAM

For expenses, not otherwise provided for, for medical and health care programs of the Department of Defense, as authorized by law, $20,237,962,000, of which $19,345,087,000 shall be for Operation and maintenance, of which not to exceed 2 percent shall remain available until September 30, 2007, and of which up to $10,157,427,000 may be available for contracts entered into under the TRICARE program; of which $377,319,000, to remain available for obligation until September 30, 2008, shall be for Procurement; and of which $515,556,000, to remain

available for obligation until September 30, 2007, shall be for Research, development, test and evaluation.

CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, ARMY

For expenses, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions, to include construction of facilities, in accordance with the provisions of section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), and for the destruction of other chemical warfare materials that are not in the chemical weapon stockpile, $1,430,727,000, of which $1,241,514,000 shall be for Operation and maintenance; $116,527,000 shall be for Procurement to remain available until September 30, 2008; $72,686,000 shall be for Research, development, test and evaluation, of which $57,926,000 shall only be for the Assembled Chemical Weapons Alternatives (ACWA) program, to remain available until September 30, 2007; and no less than $119,300,000 may be for the Chemical Stockpile Emergency Preparedness Program, of which $36,800,000 shall be for activities on military installations and $82,500,000 shall be to assist State and local governments.

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For drug interdiction and counter-drug activities of the Department of Defense, for transfer to appropriations available to the Department of Defense for military personnel of the reserve components serving under the provisions of title 10 and title 32, United States Code; for Operation and maintenance; for Procurement; and for Research, development, test and evaluation, $926,821,000: Provided, That the funds appropriated under this heading shall be available for obligation for the same time period and for the same purpose as the appropriation to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: Provided further, That the transfer authority provided under this heading is in addition to any other transfer authority contained elsewhere in this Act.

OFFICE OF THE INSPECTOR GENERAL

For expenses and activities of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $209,687,000, of which $208,687,000 shall be for Operation and maintenance, of which not to exceed $700,000 is available for emergencies and extraordinary expenses to be expended on the approval or authority of the Inspector General, and payments may be made on the Inspector General's certificate of necessity for confidential military purposes; and of which $1,000,000, to remain available until September 30, 2008, shall be for Procurement.

TITLE VII—RELATED AGENCIES

CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM FUND

For payment to the Central Intelligence Agency Retirement and Disability System Fund, to maintain the proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System, $244,600,000.

INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Intelligence Community Management Account, $413,344,000, of which $27,454,000 for the Advanced Research and Development Committee shall remain available until September 30, 2007: Provided, That of the funds appropriated under this heading, $17,000,000 shall be transferred to the Department of Justice for the National Drug Intelligence Center to support the Department of Defense's counter-drug intelligence responsibilities.

TITLE VIII—GENERAL PROVISIONS

SEC. 8001. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 8002. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense: Provided, That salary increases granted to direct and indirect hire foreign national employees of the Department of Defense funded by this Act shall not be at a rate in excess of the percentage increase authorized by law for civilian employees of the Department of Defense whose pay is computed under the provisions of section 5332 of title 5, United States Code, or at a rate in excess of the percentage increase provided by the appropriate host nation to its own employees, whichever is higher: Provided further, That this section shall not apply to Department of Defense foreign service national employees serving at United States diplomatic missions whose pay is set by the Department of State under the Foreign Service Act of 1980: Provided further, That the limitations of this provision shall not apply to foreign national employees of the Department of Defense in the Republic of Turkey.

SEC. 8003. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year, unless expressly so provided herein.

SEC. 8004. No more than 20 percent of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last 2 months of the fiscal year: Provided, That this section shall not apply to obligations for support of active duty training of reserve components or summer camp training of the Reserve Officers' Training Corps.

(TRANSFER OF FUNDS)

SEC. 8005. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed $3,500,000,000 of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: Provided, That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by the Congress: Provided further, That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority or any other authority in this Act: Provided further, That no part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress: Provided further, That a request for multiple reprogrammings of funds using authority provided in this section must be made prior to June 30, 2006: Provided further, That transfers among military personnel appropriations shall not be taken into account for purposes of the limitation on the amount of funds that may be transferred under this section.

(TRANSFER OF FUNDS)

SEC. 8006. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: Provided, That transfers may be made between such funds: Provided further, That transfers may be made between working capital funds and the ''Foreign Currency Fluctuations, Defense'' appropriation and the ''Operation and Maintenance'' appropriation accounts in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that such transfers may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. Except in amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure or increase the value of war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.

SEC. 8007. Funds appropriated by this Act may not be used to initiate a special access program without prior notification 30 calendar days in session in advance to the congressional defense committees.

SEC. 8008. None of the funds provided in this Act shall be available to initiate: (1) a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any 1 year of the contract or that includes an unfunded contingent liability in excess of $20,000,000; or (2) a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any 1 year, unless the congressional defense committees have been notified at least 30 days in advance of the proposed contract award: Provided, That no part of any appropriation contained in this Act shall be available to initiate a multiyear contract for which the economic order quantity advance procurement is not funded at least to the limits of the Government's liability: Provided further, That no part of any appropriation contained in this Act shall be available to initiate multiyear procurement contracts for any systems or component thereof if the value of the multiyear contract would exceed $500,000,000 unless specifically provided in this Act: Provided further, That no multiyear procurement contract can be terminated without 10-day prior notification to the congressional defense committees: Provided further, That the execution of multiyear authority shall require the use of a present value analysis to determine lowest cost compared to an annual procurement: Provided further, That none of the funds provided in this Act may be used for a multiyear contract executed after the date of the enactment of this Act unless in the case of any such contract—

(1) the Secretary of Defense has submitted to Congress a budget request for full funding of units to be procured through the contract;

(2) cancellation provisions in the contract do not include consideration of recurring manufacturing costs of the contractor associated with the production of unfunded units to be delivered under the contract;

(3) the contract provides that payments to the contractor under the contract shall not be made in advance of incurred costs on funded units; and

(4) the contract does not provide for a price adjustment based on a failure to award a follow-on contract.

Funds appropriated in title III of this Act may be used for a multiyear procurement contract as follows:

UH–60/MH–60 Helicopters; and

C–17 Globemaster.

SEC. 8009. Within the funds appropriated for the operation and maintenance of the Armed Forces, funds are hereby appropriated pursuant to section 401 of title 10, United States Code, for humanitarian and civic assistance costs under chapter 20 of title 10, United States Code. Such funds may also be obligated for humanitarian

and civic assistance costs incidental to authorized operations and pursuant to authority granted in section 401 of chapter 20 of title 10, United States Code, and these obligations shall be reported as required by section 401(d) of title 10, United States Code: Provided, That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99–239: Provided further, That upon a determination by the Secretary of the Army that such action is beneficial for graduate medical education programs conducted at Army medical facilities located in Hawaii, the Secretary of the Army may authorize the provision of medical services at such facilities and transportation to such facilities, on a nonreimbursable basis, for civilian patients from American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, Palau, and Guam.

SEC. 8010. (a) During fiscal year 2006, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an end-strength) on the number of such personnel who may be employed on the last day of such fiscal year.

(b) The fiscal year 2007 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2007 Department of Defense budget request shall be prepared and submitted to the Congress as if subsections (a) and (b) of this provision were effective with regard to fiscal year 2006.

(c) Nothing in this section shall be construed to apply to military (civilian) technicians.

SEC. 8011. None of the funds appropriated in this or any other Act may be used to initiate a new installation overseas without 30-day advance notification to the Committees on Appropriations.

SEC. 8012. None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.

SEC. 8013. None of the funds appropriated by this Act shall be available for the basic pay and allowances of any member of the Army participating as a full-time student and receiving benefits paid by the Secretary of Veterans Affairs from the Department of Defense Education Benefits Fund when time spent as a full-time student is credited toward completion of a service commitment: Provided, That this subsection shall not apply to those members who have reenlisted with this option prior to October 1, 1987: Provided further, That this subsection applies only to active components of the Army.

SEC. 8014. (a) LIMITATION ON CONVERSION TO CONTRACTOR PERFORMANCE.—None of the funds appropriated by this Act shall be available to convert to contractor performance an activity or function of the Department of Defense that, on or after the date of the enactment of this Act, is performed by more than 10 Department of Defense civilian employees unless—

(1) the conversion is based on the result of a public-private competition that includes a most efficient and cost effective organization plan developed by such activity or function;

(2) the Competitive Sourcing Official determines that, over all performance periods stated in the solicitation of offers for performance of the activity or function, the cost of performance of the activity or function by a contractor would be less costly to the Department of Defense by an amount that equals or exceeds the lesser of—

(A) 10 percent of the most efficient organization's personnel-related costs for performance of that activity or function by Federal employees; or

(B) $10,000,000; and

(3) the contractor does not receive an advantage for a proposal that would reduce costs for the Department of Defense by—

(A) not making an employer-sponsored health insurance plan available to the workers who are to be employed in the performance of that activity or function under the contract; or

(B) offering to such workers an employer-sponsored health benefits plan that requires the employer to contribute less towards the premium or subscription share than the amount that is paid by the Department of Defense for health benefits for civilian employees under chapter 89 of title 5, United States Code.

(b) EXCEPTIONS.—

(1) The Department of Defense, without regard to subsection (a) of this section or subsections (a), (b), or (c) of section 2461 of title 10, United States Code, and notwithstanding any administrative regulation, requirement, or policy to the contrary shall have full authority to enter into a contract for the performance of any commercial or industrial type function of the Department of Defense that—

(A) is included on the procurement list established pursuant to section 2 of the Javits-Wagner-O'Day Act (41 U.S.C. 47);

(B) is planned to be converted to performance by a qualified nonprofit agency for the blind or by a qualified nonprofit agency for other severely handicapped individuals in accordance with that Act; or

(C) is planned to be converted to performance by a qualified firm under at least 51 percent ownership by an Indian tribe, as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)), or a Native Hawaiian Organization, as defined in section 8(a)(15) of the Small Business Act (15 U.S.C. 637(a)(15)).

(2) This section shall not apply to depot contracts or contracts for depot maintenance as provided in sections 2469 and 2474 of title 10, United States Code.

(c) TREATMENT OF CONVERSION.—The conversion of any activity or function of the Department of Defense under the authority provided by this section shall be credited toward any competitive or outsourcing goal, target, or measurement that may be established by statute, regulation, or policy and is deemed to be awarded under the authority of, and in compliance with, subsection (h) of section 2304 of title 10, United States Code, for the competition or outsourcing of commercial activities.

(TRANSFER OF FUNDS)

SEC. 8015. Funds appropriated in title III of this Act for the Department of Defense Pilot Mentor-Protege Program may be transferred to any other appropriation contained in this Act solely for the purpose of implementing a Mentor-Protege Program developmental assistance agreement pursuant to section 831 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 2302 note), as amended, under the authority of this provision or any other transfer authority contained in this Act.

SEC. 8016. None of the funds in this Act may be available for the purchase by the Department of Defense (and its departments and agencies) of welded shipboard anchor and mooring chain 4 inches in diameter and under unless the anchor and mooring chain are manufactured in the United States from components which are substantially manufactured in the United States: Provided, That for the purpose of this section manufactured will include cutting, heat treating, quality control, testing of chain and welding (including the forging and shot blasting process): Provided further, That for the purpose of this section substantially all of the components of anchor and mooring chain shall be considered to be produced or manufactured in the United States if the aggregate cost of the components produced or manufactured in the United States exceeds the aggregate cost of the components produced or manufactured outside the United States: Provided further, That when adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis, the Secretary of the service responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations that such an acquisition must be made in order to acquire capability for national security purposes.

SEC. 8017. None of the funds appropriated by this Act available for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) or TRICARE shall be available for the reimbursement of any health care provider for inpatient mental health service for care received when a patient is referred to a provider of inpatient mental health care or residential treatment care by a medical or health care professional having an economic interest in the facility to which the patient is referred: Provided, That this limitation does not apply in the case of inpatient mental health services provided under the program for persons with disabilities under subsection (d) of section 1079 of title 10, United States Code, provided as partial hospital care, or provided pursuant to a waiver authorized by the Secretary of Defense because of medical or psychological circumstances of the patient that are confirmed by a health professional who is not a Federal employee after a review, pursuant to rules prescribed by the Secretary, which takes into account the appropriate level of care for the patient, the intensity of services required by the patient, and the availability of that care.

SEC. 8018. Of the funds appropriated or otherwise made available in this Act, a reduction of $591,100,000 is hereby taken from title III, Procurement, from the ''Other Procurement, Army'' account: Provided, That within 30 days of enactment of this Act, the Secretary of the Army shall provide a report to the House Committee on Appropriations and the Senate Committee on Appropriations which describes the application of these reductions to programs, projects or activities within this account.

SEC. 8019. None of the funds available to the Department of Defense may be used to demilitarize or dispose of M–1 Carbines, M–1 Garand rifles, M–14 rifles, .22 caliber rifles, .30 caliber rifles, or M–1911 pistols.

SEC. 8020. No more than $500,000 of the funds appropriated or made available in this Act shall be used during a single fiscal year for any single relocation of an organization, unit, activity or function of the Department of Defense into or within the National Capital Region: Provided, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the congressional defense committees that such a relocation is required in the best interest of the Government.

SEC. 8021. In addition to the funds provided elsewhere in this Act, $8,000,000 is appropriated only for incentive payments authorized by section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544): Provided, That a prime contractor or a subcontractor at any tier that makes a subcontract award to any subcontractor or supplier as defined in section 1544 of title 25, United States Code or a small business owned and controlled by an individual or individuals defined under section 4221(9) of title 25, United States Code shall be considered a contractor for the purposes of being allowed additional compensation under section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544) whenever the prime contract or subcontract amount is over $500,000 and involves the expenditure of funds appropriated by an Act making Appropriations for the Department of Defense with respect to any fiscal year: Provided further, That notwithstanding section 430 of title 41, United States

Code, this section shall be applicable to any Department of Defense acquisition of supplies or services, including any contract and any subcontract at any tier for acquisition of commercial items produced or manufactured, in whole or in part by any subcontractor or supplier defined in section 1544 of title 25, United States Code or a small business owned and controlled by an individual or individuals defined under section 4221(9) of title 25, United States Code: Provided further, That, during the current fiscal year and hereafter, businesses certified as 8(a) by the Small Business Administration pursuant to section 8(a)(15) of Public Law 85–536, as amended, shall have the same status as other program participants under section 602 of Public Law 100–656, 102 Stat. 3825 (Business Opportunity Development Reform Act of 1988) for purposes of contracting with agencies of the Department of Defense.

SEC. 8022. None of the funds appropriated by this Act shall be available to perform any cost study pursuant to the provisions of OMB Circular A–76 if the study being performed exceeds a period of 24 months after initiation of such study with respect to a single function activity or 30 months after initiation of such study for a multi-function activity.

SEC. 8023. Funds appropriated by this Act for the American Forces Information Service shall not be used for any national or international political or psychological activities.

SEC. 8024. Notwithstanding any other provision of law or regulation, the Secretary of Defense may adjust wage rates for civilian employees hired for certain health care occupations as authorized for the Secretary of Veterans Affairs by section 7455 of title 38, United States Code.

SEC. 8025. The Secretary of Defense, acting through the Office of Economic Adjustment of the Department of Defense, may use funds made available in this Act under the heading ''Operation and Maintenance, Defense-Wide'' to make grants and supplement other Federal funds in accordance with the guidance provided in the report of the Committee on Appropriations of the Senate accompanying this Act, and the projects specified in such guidance shall be considered to be authorized by law.

SEC. 8026. During the current fiscal year, the Department of Defense is authorized to incur obligations of not to exceed $350,000,000 for purposes specified in section 2350j(c) of title 10, United States Code, in anticipation of receipt of contributions, only from the Government of Kuwait, under that section: Provided, That upon receipt, such contributions from the Government of Kuwait shall be credited to the appropriations or fund which incurred such obligations.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8027. (a) Of the funds made available in this Act, not less than $31,109,000 shall be available for the Civil Air Patrol Corporation, of which—

(1) $24,288,000 shall be available from ''Operation and Maintenance, Air Force'' to support Civil Air Patrol Corporation operation and maintenance, readiness, counterdrug activities, and drug demand reduction activities involving youth programs;

(2) $6,000,000 shall be available from ''Aircraft Procurement, Air Force''; and

(3) $821,000 shall be available from ''Other Procurement, Air Force'' for vehicle procurement.

(b) The Secretary of the Air Force should waive reimbursement for any funds used by the Civil Air Patrol for counter-drug activities in support of Federal, State, and local government agencies.

SEC. 8028. (a) None of the funds appropriated in this Act are available to establish a new Department of Defense (department) federally funded research and development center (FFRDC), either as a new entity, or as a separate entity administrated by an organization managing another FFRDC, or as a nonprofit membership corporation consisting of a consortium of other FFRDCs and other non-profit entities.

(b) No member of a Board of Directors, Trustees, Overseers, Advisory Group, Special Issues Panel, Visiting Committee, or any similar entity of a defense FFRDC, and no paid consultant to any defense FFRDC, except when acting in a technical advisory capacity, may be compensated for his or her services as a member of such entity, or as a paid consultant by more than one FFRDC in a fiscal year: Provided, That a member of any such entity referred to previously in this subsection shall be allowed travel expenses and per diem as authorized under the Federal Joint Travel Regulations, when engaged in the performance of membership duties.

(c) Notwithstanding any other provision of law, none of the funds available to the department from any source during fiscal year 2006 may be used by a defense FFRDC, through a fee or other payment mechanism, for construction of new buildings, for payment of cost sharing for projects funded by Government grants, for absorption of contract overruns, or for certain charitable contributions, not to include employee participation in community service and/or development.

(d) Notwithstanding any other provision of law, of the funds available to the department during fiscal year 2006, not more than 5,500 staff years of technical effort (staff years) may be funded for defense FFRDCs: Provided, That of the specific amount referred to previously in this subsection, not more than 1,050 staff years may be funded for the defense studies and analysis FFRDCs: Provided further, That this subsection shall not apply to staff years funded in the National Intelligence Program (NIP).

(e) The Secretary of Defense shall, with the submission of the department's fiscal year 2007 budget request, submit a report presenting the specific amounts of staff years of technical effort to be allocated for each defense FFRDC during that fiscal year.

(f) Notwithstanding any other provision of this Act, the total amount appropriated in this Act for FFRDCs is hereby reduced by $51,600,000.

SEC. 8029. None of the funds appropriated or made available in this Act shall be used to procure carbon, alloy or armor steel plate for use in any Government-owned facility or property under the control of the Department of Defense which were not melted and rolled in the United States or Canada: Provided, That these procurement restrictions shall apply to any and all Federal Supply Class 9515, American Society of Testing and Materials (ASTM) or American Iron and Steel Institute (AISI) specifications of carbon, alloy or armor steel plate: Provided further, That the Secretary of the military department responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: Provided further, That these restrictions shall not apply to contracts which are in being as of the date of the enactment of this Act.

SEC. 8030. For the purposes of this Act, the term ''congressional defense committees'' means the Armed Services Committee of the House of Representatives, the Armed Services Committee of the Senate, the Subcommittee on Defense of the Committee on Appropriations of the Senate, and the Subcommittee on Defense of the Committee on Appropriations of the House of Representatives.

SEC. 8031. During the current fiscal year, the Department of Defense may acquire the modification, depot maintenance and repair of aircraft, vehicles and vessels as well as the production of components and other Defense-related articles, through competition between Department of Defense depot maintenance activities and private firms: Provided, That the Senior Acquisition Executive of the military department or Defense Agency concerned, with power of delegation, shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private bids: Provided further, That Office of Management and Budget Circular A–76 shall not apply to competitions conducted under this section.

SEC. 8032. (a)(1) If the Secretary of Defense, after consultation with the United States Trade Representative, determines that a foreign country which is party to an agreement described in paragraph (2) has violated the terms of the agreement by discriminating against certain types of products produced in the United States that are covered by the agreement, the Secretary of Defense shall rescind the Secretary's blanket waiver of the Buy American Act with respect to such types of products produced in that foreign country.

(2) An agreement referred to in paragraph (1) is any reciprocal defense procurement memorandum of understanding, between the United States and a foreign country pursuant to which the Secretary of Defense has prospectively waived the Buy American Act for certain products in that country.

(b) The Secretary of Defense shall submit to the Congress a report on the amount of Department of Defense purchases from foreign entities in fiscal year 2006. Such report shall separately indicate the dollar value of items for which the Buy American Act was waived pursuant to any agreement described in subsection (a)(2), the Trade Agreement Act of 1979 (19 U.S.C. 2501 et seq.), or any international agreement to which the United States is a party.

(c) For purposes of this section, the term ''Buy American Act'' means title III of the Act entitled ''An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes'', approved March 3, 1933 (41 U.S.C. 10a et seq.).

SEC. 8033. Appropriations contained in this Act that remain available at the end of the current fiscal year, and at the end of each fiscal year hereafter, as a result of energy cost savings realized by the Department of Defense shall remain available for obligation for the next fiscal year to the extent, and for the purposes, provided in section 2865 of title 10, United States Code.

SEC. 8034. None of the funds in this Act may be used for research, development, test, evaluation, procurement or deployment of nuclear armed interceptors of a missile defense system.

SEC. 8035. None of the funds appropriated in this Act shall be used to study, demonstrate, or implement any plans privatizing, divesting or transferring of any Civil Works missions, functions, or responsibilities for the United States Army Corps of Engineers to other government agencies without specific direction in a subsequent Act of Congress.

SEC. 8036. The President shall include with each budget for a fiscal year submitted to the Congress under section 1105 of title 31, and hereafter, United States Code, materials that shall identify clearly and separately the amounts requested in the budget for appropriation for that fiscal year for salaries and expenses related to administrative activities of the Department of Defense, the military departments, and the defense agencies.

SEC. 8037. Notwithstanding any other provision of law, funds available during the current fiscal year and hereafter for ''Drug Interdiction and Counter-Drug Activities, Defense'' may be obligated for the Young Marines program.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8038. During the current fiscal year, amounts contained in the Department of Defense Overseas Military Facility Investment Recovery Account established by section 2921(c)(1)

of the National Defense Authorization Act of 1991 (Public Law 101–510; 10 U.S.C. 2687 note) shall be available until expended for the payments specified by section 2921(c)(2) of that Act.

SEC. 8039. (a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of the Air Force may convey at no cost to the Air Force, without consideration, to Indian tribes located in the States of North Dakota, South Dakota, Montana, and Minnesota relocatable military housing units located at Grand Forks Air Force Base and Minot Air Force Base that are excess to the needs of the Air Force.

(b) PROCESSING OF REQUESTS.—The Secretary of the Air Force shall convey, at no cost to the Air Force, military housing units under subsection (a) in accordance with the request for such units that are submitted to the Secretary by the Operation Walking Shield Program on behalf of Indian tribes located in the States of North Dakota, South Dakota, Montana, and Minnesota.

(c) RESOLUTION OF HOUSING UNIT CONFLICTS.—The Operation Walking Shield Program shall resolve any conflicts among requests of Indian tribes for housing units under subsection (a) before submitting requests to the Secretary of the Air Force under subsection (b).

(d) INDIAN TRIBE DEFINED.—In this section, the term ''Indian tribe'' means any recognized Indian tribe included on the current list published by the Secretary of the Interior under section 104 of the Federally Recognized Indian Tribe Act of 1994 (Public Law 103–454; 108 Stat. 4792; 25 U.S.C. 479a–1).

SEC. 8040. During the current fiscal year, appropriations which are available to the Department of Defense for operation and maintenance may be used to purchase items having an investment item unit cost of not more than $250,000.

SEC. 8041. (a) During the current fiscal year, none of the appropriations or funds available to the Department of Defense Working Capital Funds shall be used for the purchase of an investment item for the purpose of acquiring a new inventory item for sale or anticipated sale during the current fiscal year or a subsequent fiscal year to customers of the Department of Defense Working Capital Funds if such an item would not have been chargeable to the Department of Defense Business Operations Fund during fiscal year 1994 and if the purchase of such an investment item would be chargeable during the current fiscal year to appropriations made to the Department of Defense for procurement.

(b) The fiscal year 2007 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2007 Department of Defense budget shall be prepared and submitted to the Congress on the basis that any equipment which was classified as an end item and funded in a procurement appropriation contained in this Act shall be budgeted for in a proposed fiscal year 2007 procurement appropriation and not in the supply management business area or any other area or category of the Department of Defense Working Capital Funds.

SEC. 8042. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year, except for funds appropriated for the Reserve for Contingencies, which shall remain available until September 30, 2007: Provided, That funds appropriated, transferred, or otherwise credited to the Central Intelligence Agency Central Services Working Capital Fund during this or any prior or subsequent fiscal year shall remain available until expended: Provided further, That any funds appropriated or transferred to the Central Intelligence Agency for advanced research and development acquisition, for agent operations, and for covert action programs authorized by the President under section 503 of the National Security Act of 1947, as amended, shall remain available until September 30, 2007.

SEC. 8043. Notwithstanding any other provision of law, funds made available in this Act for the Defense Intelligence Agency may be used for the design, development, and deployment of General Defense Intelligence Program intelligence communications and intelligence information systems for the Services, the Unified and Specified Commands, and the component commands.

SEC. 8044. Of the funds appropriated to the Department of Defense under the heading ''Operation and Maintenance, Defense-Wide'', not less than $10,000,000 shall be made available only for the mitigation of environmental impacts, including training and technical assistance to tribes, related administrative support, the gathering of information, documenting of environmental damage, and developing a system for prioritization of mitigation and cost to complete estimates for mitigation, on Indian lands resulting from Department of Defense activities.

SEC. 8045. (a) None of the funds appropriated in this Act may be expended by an entity of the Department of Defense unless the entity, in expending the funds, complies with the Buy American Act. For purposes of this subsection, the term ''Buy American Act'' means title III of the Act entitled ''An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes'', approved March 3, 1933 (41 U.S.C. 10a et seq.).

(b) If the Secretary of Defense determines that a person has been convicted of intentionally affixing a label bearing a ''Made in America'' inscription to any product sold in or shipped to the United States that is not made in America, the Secretary shall determine, in accordance with section 2410f of title 10, United States Code, whether the person should be debarred from contracting with the Department of Defense.

(c) In the case of any equipment or products purchased with appropriations provided under this Act, it is the sense of the Congress that any entity of the Department of Defense, in expending the appropriation, purchase only American-made equipment and products, provided that American-made equipment and products are cost-competitive, quality-competitive, and available in a timely fashion.

SEC. 8046. None of the funds appropriated by this Act shall be available for a contract for studies, analysis, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines—

(1) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work;

(2) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source; or

(3) the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support: Provided, That this limitation shall not apply to contracts in an amount of less than $25,000,000, contracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

SEC. 8047. (a) Except as provided in subsection (b) and (c), none of the funds made available by this Act may be used—

(1) to establish a field operating agency; or

(2) to pay the basic pay of a member of the Armed Forces or civilian employee of the department who is transferred or reassigned from a headquarters activity if the member or employee's place of duty remains at the location of that headquarters.

(b) The Secretary of Defense or Secretary of a military department may waive the limitations in subsection (a), on a case-by-case basis, if the Secretary determines, and certifies to the Committees on Appropriations of the House of Representatives and Senate that the granting of the waiver will reduce the personnel requirements or the financial requirements of the department.

(c) This section does not apply to—

(1) field operating agencies funded within the National Intelligence Program; or

(2) an Army field operating agency established to eliminate, mitigate, or counter the effects of improvised explosive devices, and, as determined by the Secretary of the Army, other similar threats.

SEC. 8048. Up to $3,000,000 of the funds appropriated in Title II of this Act under the heading, ''Operation and Maintenance, Army'', may be made available to contract with the Army Historical Foundation, a non profit organization, for services required to solicit non-Federal donations to support construction and operation of the National Museum of the United States Army at Fort Belvoir, Virginia: Provided, That notwithstanding any other provision of law, the Army is authorized to receive future payments in this or the subsequent fiscal year from any non-profit organization chartered to support the National Museum of the United States Army to reimburse amounts expended by the Army pursuant to this section: Provided further, That any reimbursements received pursuant to this section shall be merged with ''Operation and Maintenance, Army'' and shall be made available for the same purposes and for the same time period as that appropriation account.

(RESCISSIONS)

SEC. 8049. Of the funds appropriated in Department of Defense Appropriations Acts, the following funds are hereby rescinded from the following accounts and programs in the specified amounts:

''Other Procurement, Army, 2005/2007'', $68,500,000;

''Aircraft Procurement, Navy, 2005/2007'', $104,800,000;

''Shipbuilding and Conversion, Navy, 2005/2009'', $67,300,000;

''Other Procurement, Navy, 2005/2007'', $43,000,000;

''Aircraft Procurement, Air Force, 2004/2006'', $4,000,000;

''Aircraft Procurement, Air Force, 2005/2007'', $20,000,000;

''Missile Procurement, Air Force, 2005/2007'', $29,000,000;

''Research, Development, Test and Evaluation, Army, 2005/2006'', $25,900,000;

''Research, Development, Test and Evaluation, Navy, 2005/2006'', $70,900,000; and

''Research, Development, Test and Evaluation, Air Force, 2005/2006'', $63,400,000.

SEC. 8050. None of the funds available in this Act may be used to reduce the authorized positions for military (civilian) technicians of the Army National Guard, the Air National Guard, Army Reserve and Air Force Reserve for the purpose of applying any administratively imposed civilian personnel ceiling, freeze, or reduction on military (civilian) technicians, unless such reductions are a direct result of a reduction in military force structure.

SEC. 8051. None of the funds appropriated or otherwise made available in this Act may be obligated or expended for assistance to the Democratic People's Republic of North Korea unless specifically appropriated for that purpose.

SEC. 8052. During the current fiscal year and hereafter, funds appropriated in this Act are available to compensate members of the National Guard for duty performed pursuant to a plan submitted by a Governor of a State and approved by the Secretary of Defense under section 112 of title 32, United States Code: Provided, That during the performance of such duty, the members of the National Guard shall be under State command and control: Provided further, That such duty shall be treated as full-time National Guard duty for purposes of sections 12602(a)(2) and (b)(2) of title 10, United States Code.

SEC. 8053. Funds appropriated in this Act for operation and maintenance of the Military Departments, Combatant Commands and Defense Agencies shall be available for reimbursement of pay, allowances and other expenses which would otherwise be incurred against appropriations for the National Guard and Reserve when members of the National Guard and Reserve provide intelligence or counterintelligence support to Combatant Commands, Defense Agencies and Joint Intelligence Activities, including the activities and programs included within the National Intelligence Program (NIP), the Joint Military Intelligence Program (JMIP), and the Tactical Intelligence and Related Activities (TIARA) aggregate: Provided, That nothing in this section authorizes deviation from established Reserve and National Guard personnel and training procedures.

SEC. 8054. During the current fiscal year, none of the funds appropriated in this Act may be used to reduce the civilian medical and medical support personnel assigned to military treatment facilities below the September 30, 2003 level: Provided, That the Service Surgeons General may waive this section by certifying to the congressional defense committees that the beneficiary population is declining in some catchment areas and civilian strength reductions may be consistent with responsible resource stewardship and capitation-based budgeting.

SEC. 8055. Up to $2,000,000 of the funds appropriated under the heading, ''Operation and Maintenance, Navy'' may be made available to contract for the installation, repair, and maintenance of an on-base and adjacent off-base wastewater/treatment facility and infrastructure critical to base operations and the public health and safety of community residents in the vicinity of the NCTAMS.

SEC. 8056. Notwithstanding any other provision of law, that not more than 35 percent of funds provided in this Act for environmental remediation may be obligated under indefinite delivery/indefinite quantity contracts with a total contract value of $130,000,000 or higher.

SEC. 8057. (a) None of the funds available to the Department of Defense for any fiscal year for drug interdiction or counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

(b) None of the funds available to the Central Intelligence Agency for any fiscal year for drug interdiction and counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

(TRANSFER OF FUNDS)

SEC. 8058. Appropriations available under the heading ''Operation and Maintenance, Defense-Wide'' for the current fiscal year and hereafter for increasing energy and water efficiency in Federal buildings may, during their period of availability, be transferred to other appropriations or funds of the Department of Defense for projects related to increasing energy and water efficiency, to be merged with and to be available for the same general purposes, and for the same time period, as the appropriation or fund to which transferred.

SEC. 8059. None of the funds appropriated by this Act may be used for the procurement of ball and roller bearings other than those produced by a domestic source and of domestic origin: Provided, That the Secretary of the military department responsible for such procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate, that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: Provided further, That this restriction shall not apply to the purchase of ''commercial items'', as defined by section 4(12) of the Office of Federal Procurement Policy Act, except that the restriction shall apply to ball or roller bearings purchased as end items.

SEC. 8060. Notwithstanding any other provision of law, funds available to the Department of Defense shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to American Samoa, and funds available to the Department of Defense shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to the Indian Health Service when it is in conjunction with a civil-military project.

SEC. 8061. None of the funds in this Act may be used to purchase any supercomputer which is not manufactured in the United States, unless the Secretary of Defense certifies to the congressional defense committees that such an acquisition must be made in order to acquire capability for national security purposes that is not available from United States manufacturers.

SEC. 8062. Notwithstanding any other provision of law, each contract awarded by the Department of Defense during the current fiscal year for construction or service performed in whole or in part in a State (as defined in section 381(d) of title 10, United States Code) which is not contiguous with another State and has an unemployment rate in excess of the national average rate of unemployment as determined by the Secretary of Labor, shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in such State that is not contiguous with another State, individuals who are residents of such State and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills: Provided, That the Secretary of Defense may waive the requirements of this section, on a case-by-case basis, in the interest of national security.

SEC. 8063. None of the funds made available in this or any other Act may be used to pay the salary of any officer or employee of the Department of Defense who approves or implements the transfer of administrative responsibilities or budgetary resources of any program, project, or activity financed by this Act to the jurisdiction of another Federal agency not financed by this Act without the express authorization of Congress: Provided, That this limitation shall not apply to transfers of funds expressly provided for in Defense Appropriations Acts, or provisions of Acts providing supplemental appropriations for the Department of Defense.

SEC. 8064. (a) LIMITATION ON TRANSFER OF DEFENSE ARTICLES AND SERVICES.—Notwithstanding any other provision of law, none of the funds available to the Department of Defense for the current fiscal year may be obligated or expended to transfer to another nation or an international organization any defense articles or services (other than intelligence services) for use in the activities described in subsection (b) unless the congressional defense committees, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate are notified 15 days in advance of such transfer.

(b) COVERED ACTIVITIES.—This section applies to—

(1) any international peacekeeping or peace-enforcement operation under the authority of chapter VI or chapter VII of the United Nations Charter under the authority of a United Nations Security Council resolution; and

(2) any other international peacekeeping, peace-enforcement, or humanitarian assistance operation.

(c) REQUIRED NOTICE.—A notice under subsection (a) shall include the following:

(1) A description of the equipment, supplies, or services to be transferred.

(2) A statement of the value of the equipment, supplies, or services to be transferred.

(3) In the case of a proposed transfer of equipment or supplies—

(A) a statement of whether the inventory requirements of all elements of the Armed Forces (including the reserve components) for the type of equipment or supplies to be transferred have been met; and

(B) a statement of whether the items proposed to be transferred will have to be replaced and, if so, how the President proposes to provide funds for such replacement.

SEC. 8065. (a) The total amount appropriated or otherwise made available in title II of this Act is hereby reduced by $92,000,000 to limit excessive growth in the travel and transportation of persons.

(b) The Secretary of Defense shall allocate this reduction proportionately to each budget activity, activity group, subactivity group, and each program, project, and activity within each applicable appropriation account.

SEC. 8066. None of the funds available to the Department of Defense under this Act shall be obligated or expended to pay a contractor under a contract with the Department of Defense for costs of any amount paid by the contractor to an employee when—

(1) such costs are for a bonus or otherwise in excess of the normal salary paid by the contractor to the employee; and

(2) such bonus is part of restructuring costs associated with a business combination.

SEC. 8067. None of the funds provided in this Act may be obligated to realign or relocate forces or operational assets from bases to be converted to enclave status until the Secretary of Defense certifies that he has sought new missions for these bases as mandated by the 2005 Defense Base Closure and Realignment Commission: Provided, That the Secretary of Defense shall report his findings to the congressional defense committees not later than October 1, 2006.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8068. During the current fiscal year, no more than $30,000,000 of appropriations made in this Act under the heading ''Operation and Maintenance, Defense-Wide'' may be transferred to appropriations available for the pay of military personnel, to be merged with, and to be available for the same time period as the appropriations to which transferred, to be used in support of such personnel in connection with support and services for eligible organizations and activities outside the Department of Defense pursuant to section 2012 of title 10, United States Code.

SEC. 8069. During the current fiscal year, in the case of an appropriation account of the Department of Defense for which the period of availability for obligation has expired or which has closed under the provisions of section 1552 of title 31, United States Code, and which has a negative unliquidated or unexpended balance, an obligation or an adjustment of an obligation may be charged to any current appropriation account for the same purpose as the expired or closed account if—

(1) the obligation would have been properly chargeable (except as to amount) to the expired or closed account before the end of the period of availability or closing of that account;

(2) the obligation is not otherwise properly chargeable to any current appropriation account of the Department of Defense; and

(3) in the case of an expired account, the obligation is not chargeable to a current appropriation of the Department of Defense under the provisions of section 1405(b)(8) of the National Defense Authorization Act for Fiscal Year 1991, Public Law 101–510, as amended (31 U.S.C. 1551 note): Provided, That in the case of an expired account, if subsequent review or investigation discloses that there was not in fact a negative unliquidated or unexpended balance in the account, any charge to a current account under the authority of this section shall be reversed and recorded against the expired account: Provided further, That the total amount charged to a current appropriation under this section may

not exceed an amount equal to 1 percent of the total appropriation for that account.

SEC. 8070. Notwithstanding section 12310(b) of title 10, United States Code, a Reserve who is a member of the National Guard serving on full-time National Guard duty under section 502(f) of Title 32 may perform duties in support of the ground-based elements of the National Ballistic Missile Defense System.

SEC. 8071. (a) Notwithstanding any other provision of law, the Chief of the National Guard Bureau may permit the use of equipment of the National Guard Distance Learning Project by any person or entity on a space-available, reimbursable basis. The Chief of the National Guard Bureau shall establish the amount of reimbursement for such use on a case-by-case basis.

(b) Amounts collected under subsection (a) shall be credited to funds available for the National Guard Distance Learning Project and be available to defray the costs associated with the use of equipment of the project under that subsection. Such funds shall be available for such purposes without fiscal year limitation.

SEC. 8072. Using funds available by this Act or any other Act, the Secretary of the Air Force, pursuant to a determination under section 2690 of title 10, United States Code, may implement cost-effective agreements for required heating facility modernization in the Kaiserslautern Military Community in the Federal Republic of Germany: Provided, That in the City of Kaiserslautern such agreements will include the use of United States anthracite as the base load energy for municipal district heat to the United States Defense installations: Provided further, That at Landstuhl Army Regional Medical Center and Ramstein Air Base, furnished heat may be obtained from private, regional or municipal services, if provisions are included for the consideration of United States coal as an energy source.

SEC. 8073. None of the funds appropriated in title IV of this Act may be used to procure end-items for delivery to military forces for operational training, operational use or inventory requirements: Provided, That this restriction does not apply to end-items used in development, prototyping, and test activities preceding and leading to acceptance for operational use: Provided further, That this restriction does not apply to programs funded within the National Intelligence Program: Provided further, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so.

SEC. 8074. None of the funds made available in this Act may be used to approve or license the sale of the F–22 advanced tactical fighter to any foreign government.

SEC. 8075. (a) The Secretary of Defense may, on a case-by-case basis, waive with respect to a foreign country each limitation on the procurement of defense items from foreign sources provided in law if the Secretary determines that the application of the limitation with respect to that country would invalidate cooperative programs entered into between the Department of Defense and the foreign country, or would invalidate reciprocal trade agreements for the procurement of defense items entered into under section 2531 of title 10, United States Code, and the country does not discriminate against the same or similar defense items produced in the United States for that country.

(b) Subsection (a) applies with respect to—

(1) contracts and subcontracts entered into on or after the date of the enactment of this Act; and

(2) options for the procurement of items that are exercised after such date under contracts that are entered into before such date if the option prices are adjusted for any reason other than the application of a waiver granted under subsection (a).

(c) Subsection (a) does not apply to a limitation regarding construction of public vessels, ball and roller bearings, food, and clothing or textile materials as defined by section 11 (chapters 50–65) of the Harmonized Tariff Schedule and products classified under headings 4010, 4202, 4203, 6401 through 6406, 6505, 7019, 7218 through 7229, 7304.41 through 7304.49, 7306.40, 7502 through 7508, 8105, 8108, 8109, 8211, 8215, and 9404.

SEC. 8076. (a) PROHIBITION.—None of the funds made available by this Act may be used to support any training program involving a unit of the security forces of a foreign country if the Secretary of Defense has received credible information from the Department of State that the unit has committed a gross violation of human rights, unless all necessary corrective steps have been taken.

(b) MONITORING.—The Secretary of Defense, in consultation with the Secretary of State, shall ensure that prior to a decision to conduct any training program referred to in subsection (a), full consideration is given to all credible information available to the Department of State relating to human rights violations by foreign security forces.

(c) WAIVER.—The Secretary of Defense, after consultation with the Secretary of State, may waive the prohibition in subsection (a) if he determines that such waiver is required by extraordinary circumstances.

(d) REPORT.—Not more than 15 days after the exercise of any waiver under subsection (c), the Secretary of Defense shall submit a report to the congressional defense committees describing the extraordinary circumstances, the purpose and duration of the training program, the United States forces and the foreign security forces involved in the training program, and the information relating to human rights violations that necessitates the waiver.

SEC. 8077. (a) The Secretary of Defense, in coordination with the Secretary of Health and Human Services, may carry out a program to distribute surplus dental and medical equipment of the Department of Defense, at no cost to the Department of Defense, to Indian Health Service facilities and to federally-qualified health centers (within the meaning of section 1905(l)(2)(B) of the Social Security Act (42 U.S.C. 1396d(l)(2)(B))).

(b) In carrying out this provision, the Secretary of Defense shall give the Indian Health Service a property disposal priority equal to the priority given to the Department of Defense and its twelve special screening programs in distribution of surplus dental and medical supplies and equipment.

SEC. 8078. None of the funds appropriated or made available in this Act to the Department of the Navy shall be used to develop, lease or procure the T–AKE class of ships unless the main propulsion diesel engines and propulsors are manufactured in the United States by a domestically operated entity: Provided, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes or there exists a significant cost or quality difference.

SEC. 8079. None of the funds appropriated or otherwise made available by this or other Department of Defense Appropriations Acts may be obligated or expended for the purpose of performing repairs or maintenance to military family housing units of the Department of Defense, including areas in such military family housing units that may be used for the purpose of conducting official Department of Defense business.

SEC. 8080. Notwithstanding any other provision of law, funds appropriated in this Act under the heading ''Research, Development, Test and Evaluation, Defense-Wide'' for any new start advanced concept technology demonstration project may only be obligated 30 days after a report, including a description of the project, the planned acquisition and transition strategy and its estimated annual and total cost, has been provided in writing to the congressional defense committees: Provided, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying to the congressional defense committees that it is in the national interest to do so.

SEC. 8081. The Secretary of Defense shall provide a classified quarterly report, beginning 30 days after enactment of this Act, to the Houseand Senate Appropriations Committees, Subcommittees on Defense on certain matters as directed in the classified annex accompanying this Act.

SEC. 8082. During the current fiscal year, refunds attributable to the use of the Government travel card, refunds attributable to the use of the Government Purchase Card and refunds attributable to official Government travel arranged by Government Contracted Travel Management Centers may be credited to operation and maintenance, and research, development, test and evaluation accounts of the Department of Defense which are current when the refunds are received.

SEC. 8083. (a) REGISTERING FINANCIAL MANAGEMENT INFORMATION TECHNOLOGY SYSTEMS WITH DOD CHIEF INFORMATION OFFICER.—None of the funds appropriated in this Act may be used for a mission critical or mission essential financial management information technology system (including a system funded by the defense working capital fund) that is not registered with the Chief Information Officer of the Department of Defense. A system shall be considered to be registered with that officer upon the furnishing to that officer of notice of the system, together with such information concerning the system as the Secretary of Defense may prescribe. A financial management information technology system shall be considered a mission critical or mission essential information technology system as defined by the Under Secretary of Defense (Comptroller).

(b) CERTIFICATIONS AS TO COMPLIANCE WITH FINANCIAL MANAGEMENT MODERNIZATION PLAN.—

(1) During the current fiscal year, a financial management automated information system, a mixed information system supporting financial and non-financial systems, or a system improvement of more than $1,000,000 may not receive Milestone A approval, Milestone B approval, or full rate production, or their equivalent, within the Department of Defense until the Under Secretary of Defense (Comptroller) certifies, with respect to that milestone, that the system is being developed and managed in accordance with the Department's Financial Management Modernization Plan. The Under Secretary of Defense (Comptroller) may require additional certifications, as appropriate, with respect to any such system.

(2) The Chief Information Officer shall provide the congressional defense committees timely notification of certifications under paragraph (1).

(c) CERTIFICATIONS AS TO COMPLIANCE WITH CLINGER-COHEN ACT.—

(1) During the current fiscal year, a major automated information system may not receive Milestone A approval, Milestone B approval, or full rate production approval, or their equivalent, within the Department of Defense until the Chief Information Officer certifies, with respect to that milestone, that the system is being developed in accordance with the Clinger-Cohen Act of 1996 (40 U.S.C. 1401 et seq.). The Chief Information Officer may require additional certifications, as appropriate, with respect to any such system.

(2) The Chief Information Officer shall provide the congressional defense committees timely

notification of certifications under paragraph (1). Each such notification shall include, at a minimum, the funding baseline and milestone schedule for each system covered by such a certification and confirmation that the following steps have been taken with respect to the system:

(A) Business process reengineering.

(B) An analysis of alternatives.

(C) An economic analysis that includes a calculation of the return on investment.

(D) Performance measures.

(E) An information assurance strategy consistent with the Department's Global Information Grid.

(d) DEFINITIONS.—For purposes of this section:

(1) The term ''Chief Information Officer'' means the senior official of the Department of Defense designated by the Secretary of Defense pursuant to section 3506 of title 44, United States Code.

(2) The term ''information technology system'' has the meaning given the term ''information technology'' in section 5002 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401).

SEC. 8084. During the current fiscal year, none of the funds available to the Department of Defense may be used to provide support to another department or agency of the United States if such department or agency is more than 90 days in arrears in making payment to the Department of Defense for goods or services previously provided to such department or agency on a reimbursable basis: Provided, That this restriction shall not apply if the department is authorized by law to provide support to such department or agency on a nonreimbursable basis, and is providing the requested support pursuant to such authority: Provided further, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so.

SEC. 8085. None of the funds provided in this Act may be used to transfer to any nongovernmental entity ammunition held by the Department of Defense that has a center-fire cartridge and a United States military nomenclature designation of ''armor penetrator'', ''armor piercing (AP)'', ''armor piercing incendiary (API)'', or ''armor-piercing incendiary-tracer (API-T)'', except to an entity performing demilitarization services for the Department of Defense under a contract that requires the entity to demonstrate to the satisfaction of the Department of Defense that armor piercing projectiles are either: (1) rendered incapable of reuse by the demilitarization process; or (2) used to manufacture ammunition pursuant to a contract with the Department of Defense or the manufacture of ammunition for export pursuant to a License for Permanent Export of Unclassified Military Articles issued by the Department of State.

SEC. 8086. Notwithstanding any other provision of law, the Chief of the National Guard Bureau, or his designee, may waive payment of all or part of the consideration that otherwise would be required under section 2667 of title 10, United States Code, in the case of a lease of personal property for a period not in excess of 1 year to any organization specified in 32 U.S.C. 508(d), or any other youth, social, or fraternal non-profit organization as may be approved by the Chief of the National Guard Bureau, or his designee, on a case-by-case basis.

SEC. 8087. None of the funds appropriated by this Act shall be used for the support of any nonappropriated funds activity of the Department of Defense that procures malt beverages and wine with nonappropriated funds for resale (including such alcoholic beverages sold by the drink) on a military installation located in the United States unless such malt beverages and wine are procured within that State, or in the case of the District of Columbia, within the District of Columbia, in which the military installation is located: Provided, That in a case in which the military installation is located in more than one State, purchases may be made in any State in which the installation is located: Provided further, That such local procurement requirements for malt beverages and wine shall apply to all alcoholic beverages only for military installations in States which are not contiguous with another State: Provided further, That alcoholic beverages other than wine and malt beverages, in contiguous States and the District of Columbia shall be procured from the most competitive source, price and other factors considered.

SEC. 8088. Up to $2,500,000 of the funds appropriated under the heading ''Operation and Maintenance, Navy'' in this Act for the Pacific Missile Range Facility may be made available to contract for the repair, maintenance, and operation of adjacent off-base water, drainage, and flood control systems, electrical upgrade to support additional missions critical to base operations, and support for a range footprint expansion to further guard against encroachment.

SEC. 8089. Funds available to the Department of Defense for the Global Positioning System during the current fiscal year may be used to fund civil requirements associated with the satellite and ground control segments of such system's modernization program.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8090. Of the amounts appropriated in this Act under the heading, ''Operation and Maintenance, Army'', $147,900,000 shall remain available until expended: Provided, That notwithstanding any other provision of law, the Secretary of Defense is authorized to transfer such funds to other activities of the Federal Government: Provided further, That the Secretary of Defense is authorized to enter into and carry out contracts for the acquisition of real property, construction, personal services, and operations related to projects described in further detail in the Classified Annex accompanying the Department of Defense Appropriations Act, 2006, consistent with the terms and conditions set forth therein: Provided further, That contracts entered into under the authority of this section may provide for such indemnification as the Secretary determines to be necessary: Provided further, That projects authorized by this section shall comply with applicable Federal, State, and local law to the maximum extent consistent with the national security, as determined by the Secretary of Defense.

SEC. 8091. Section 8106 of the Department of Defense Appropriations Act, 1997 (titles I through VIII of the matter under subsection 101(b) of Public Law 104–208; 110 Stat. 3009–111; 10 U.S.C. 113 note) shall continue in effect to apply to disbursements that are made by the Department of Defense in fiscal year 2006.

SEC. 8092. Amounts appropriated in title II of this Act are hereby reduced by $265,890,000 to reflect savings attributable to efficiencies and management improvements in the funding of miscellaneous or other contracts in the military departments, as follows:

(1) From ''Operation and Maintenance, Army'', $36,890,000.

(2) From ''Operation and Maintenance, Navy'', $79,000,000.

(3) From ''Operation and Maintenance, Air Force'', $150,000,000.

SEC. 8093. The total amount appropriated or otherwise made available in this Act is hereby reduced by $100,000,000 to limit excessive growth in the procurement of advisory and assistance services, to be distributed as follows:

''Operation and Maintenance, Army'', $37,000,000;

''Operation and Maintenance, Air Force'', $6,000,000;

''Operation and Maintenance, Defense-Wide'', $45,000,000; and

''Operation and Maintenance, Army Reserve'', $12,000,000.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8094. Of the amounts appropriated in this Act under the heading ''Research, Development, Test and Evaluation, Defense-Wide'', $143,600,000 shall be made available for the Arrow missile defense program: Provided, That of this amount, $70,000,000 shall be available for the purpose of producing Arrow missile components in the United States and Arrow missile components and missiles in Israel to meet Israel's defense requirements, consistent with each nation's laws, regulations and procedures, and $10,000,000 shall be available for the purpose of the initiation of a joint feasibility study and risk reduction activities designated the Short Range Ballistic Missile Defense (SRBMD) initiative: Provided further, That funds made available under this provision for production of missiles and missile components may be transferred to appropriations available for the procurement of weapons and equipment, to be merged with and to be available for the same time period and the same purposes as the appropriation to which transferred: Provided further, That the transfer authority provided under this provision is in addition to any other transfer authority contained in this Act.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8095. Of the amounts appropriated in this Act under the heading ''Shipbuilding and Conversion, Navy'', $517,523,000 shall be available until September 30, 2006, to fund prior year shipbuilding cost increases: Provided, That upon enactment of this Act, the Secretary of the Navy shall transfer such funds to the following appropriations in the amounts specified: Provided further, That the amounts transferred shall be merged with and be available for the same purposes as the appropriations to which transferred:

To:

Under the heading, ''Shipbuilding and Conversion, Navy, 1998/2006'':

New SSN, $28,000,000.

Under the heading, ''Shipbuilding and Conversion, Navy, 1999/2006'':

LPD–17 Amphibious Transport Dock Ship Program, $95,000,000;

New SSN, $72,000,000.

Under the heading, ''Shipbuilding and Conversion, Navy, 2000/2006'':

LPD–17 Amphibious Transport Dock Ship Program, $94,800,000.

Under the heading, ''Shipbuilding and Conversion, Navy, 2001/2006'':

Carrier Replacement Program, $145,023,000;

New SSN, $82,700,000.

SEC. 8096. The Secretary of the Navy may settle, or compromise, and pay any and all admiralty claims under section 7622 of title 10, United States Code arising out of the collision involving the U.S.S. GREENEVILLE and the EHIME MARU, in any amount and without regard to the monetary limitations in subsections (a) and (b) of that section: Provided, That such payments shall be made from funds available to the Department of the Navy for operation and maintenance.

SEC. 8097. None of the funds available to the Department of Defense may be obligated to modify command and control relationships to give Fleet Forces Command administrative and operational control of U.S. Navy forces assigned to the Pacific fleet: Provided, That the command and control relationships which existed on October 1, 2004, shall remain in force unless changes are specifically authorized in a subsequent Act.

SEC. 8098. Notwithstanding any other provision of law or regulation, the Secretary of Defense may exercise the provisions of section 7403(g) of title 38, United States Code for occupations listed in section 7403(a)(2) of title 38, United States Code as well as the following:

Pharmacists, Audiologists, and Dental Hygienists.

(A) The requirements of section 7403(g)(1)(A) of title 38, United States Code shall apply.

(B) The limitations of section 7403(g)(1)(B) of title 38, United States Code shall not apply.

SEC. 8099. Funds appropriated by this Act, or made available by the transfer of funds in this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2006 until the enactment of the Intelligence Authorization Act for fiscal year 2006.

SEC. 8100. In addition to funds made available elsewhere in this Act, $5,500,000 is hereby appropriated and shall remain available until expended to provide assistance, by grant or otherwise (such as, but not limited to, the provision of funds for repairs, maintenance, construction, and/or for the purchase of information technology, text books, teaching resources), to public schools that have unusually high concentrations of special needs military dependents enrolled: Provided, That in selecting school systems to receive such assistance, special consideration shall be given to school systems in States that are considered overseas assignments, and all schools within these school systems shall be eligible for assistance: Provided further, That up to 2 percent of the total appropriated funds under this section shall be available to support the administration and execution of the funds or program and/or events that promote the purpose of this appropriation (e.g. payment of travel and per diem of school teachers attending conferences or a meeting that promotes the purpose of this appropriation and/or consultant fees for on-site training of teachers, staff, or Joint Venture Education Forum (JVEF) Committee members): Provided further, That up to $2,000,000 shall be available for the Department of Defense to establish a non-profit trust fund to assist in the public-private funding of public school repair and maintenance projects, or provide directly to non-profit organizations who in return will use these monies to provide assistance in the form of repair, maintenance, or renovation to public school systems that have high concentrations of special needs military dependents and are located in States that are considered overseas assignments: Provided further, That to the extent a Federal agency provides this assistance, by contract, grant, or otherwise, it may accept and expend non-Federal funds in combination with these Federal funds to provide assistance for the authorized purpose, if the non-Federal entity requests such assistance and the non-Federal funds are provided on a reimbursable basis.

SEC. 8101. None of the funds in this Act may be used to initiate a new start program without prior written notification to the Office of Secretary of Defense and the congressional defense committees.

SEC. 8102. The amounts appropriated in title II of this Act are hereby reduced by $350,000,000 to reflect cash balance and rate stabilization adjustments in Department of Defense Working Capital Funds, as follows:

(1) From ''Operation and Maintenance, Army'', $100,000,000.

(2) From ''Operation and Maintenance, Navy'', $150,000,000.

(3) From ''Operation and Maintenance, Air Force'', $100,000,000.

SEC. 8103. FINANCING AND FIELDING OF KEY ARMY CAPABILITIES.—The Department of Defense and the Department of the Army shall make future budgetary and programming plans to fully finance the Non-Line of Sight Future Force cannon and resupply vehicle program (NLOS–C) in order to field this system in fiscal year 2010, consistent with the broader plan to field the Future Combat System (FCS) in fiscal year 2010: Provided, That if the Army is precluded from fielding the FCS program by fiscal year 2010, then the Army shall develop the NLOS–C independent of the broader FCS development timeline to achieve fielding by fiscal year 2010. In addition the Army will deliver eight (8) combat operational pre-production NLOS–C systems by the end of calendar year 2008. These systems shall be in addition to those systems necessary for developmental and operational testing: Provided further, That the Army shall ensure that budgetary and programmatic plans will provide for no fewer than seven (7) Stryker Brigade Combat Teams.

SEC. 8104. Of the funds made available in this Act, not less than $76,100,000 shall be available to maintain an attrition reserve force of 18 B–52 aircraft, of which $3,900,000 shall be available from ''Military Personnel, Air Force'', $44,300,000 shall be available from ''Operation and Maintenance, Air Force'', and $27,900,000 shall be available from ''Aircraft Procurement, Air Force'': Provided, That the Secretary of the Air Force shall maintain a total force of 94 B–52 aircraft, including 18 attrition reserve aircraft, during fiscal year 2006: Provided further, That the Secretary of Defense shall include in the Air Force budget request for fiscal year 2007 amounts sufficient to maintain a B–52 force totaling 94 aircraft.

SEC. 8105. The Secretary of the Air Force is authorized, using funds available under the heading ''Operation and Maintenance, Air Force'', to complete a phased repair project, which repairs may include upgrades and additions, to the infrastructure of the operational ranges managed by the Air Force in Alaska: Provided, That the total cost of such phased projects shall not exceed $32,000,000.

SEC. 8106. In addition to the amounts appropriated or otherwise made available elsewhere in this Act, $12,850,000 is hereby appropriated to the Department of Defense, to remain available until September 30, 2006: Provided, That the Secretary of Defense shall make grants in the amounts specified as follows: $850,000 to the Fort Des Moines Memorial Park and Education Center; $2,000,000 to the American Civil War Center at Historic Tredegar; $3,000,000 to the Museum of Flight, American Heroes Collection; $1,000,000 to the National Guard Youth Foundation; $3,000,000 to the United Services Organization; $2,000,000 to the Dwight D. Eisenhower Memorial Commission; and $1,000,000 to the Iraq Cultural Heritage Assistance Project.

(TRANSFER OF FUNDS)

SEC. 8107. The Secretary of Defense may transfer funds from any currently available Department of the Navy appropriation to any available Navy shipbuilding and conversion appropriation for the purpose of funding shipbuilding cost increases for any ship construction program, to be merged with and to be available for the same purposes and for the same time period as the appropriation to which transferred: Provided, That all transfers under this section shall be subject to the notification requirements applicable to transfers under section 8005 of this Act.

SEC. 8108. The budget of the President for fiscal year 2007 submitted to the Congress pursuant to section 1105 of title 31, United States Code shall include separate budget justification documents for costs of United States Armed Forces' participation in contingency operations for the Military Personnel accounts, the Operation and Maintenance accounts, and the Procurement accounts: Provided, That these documents shall include a description of the funding requested for each contingency operation, for each military service, to include all Active and Reserve components, and for each appropriations account: Provided further, That these documents shall include estimated costs for each element of expense or object class, a reconciliation of increases and decreases for each contingency operation, and programmatic data including, but not limited to, troop strength for each Active and Reserve component, and estimates of the major weapons systems deployed in support of each contingency: Provided further, That these documents shall include budget exhibits OP–5 and OP–32 (as defined in the Department of Defense Financial Management Regulation) for all contingency operations for the budget year and the two preceding fiscal years.

SEC. 8109. Of the amounts provided in title II of this Act under the heading, ''Operation and Maintenance, Defense-Wide'', $20,000,000 is available for the Regional Defense Counter-terrorism Fellowship Program, to fund the education and training of foreign military officers, ministry of defense civilians, and other foreign security officials, to include United States military officers and civilian officials whose participation directly contributes to the education and training of these foreign students.

SEC. 8110. None of the funds appropriated or made available in this Act shall be used to reduce or disestablish the operation of the 53rd Weather Reconnaissance Squadron of the Air Force Reserve, if such action would reduce the WC–130 Weather Reconnaissance mission below the levels funded in this Act: Provided, That the Air Force shall allow the 53rd Weather Reconnaissance Squadron to perform other missions in support of national defense requirements during the non-hurricane season.

SEC. 8111. None of the funds provided in this Act shall be available for integration of foreign intelligence information unless the information has been lawfully collected and processed during the conduct of authorized foreign intelligence activities: Provided, That information pertaining to United States persons shall only be handled in accordance with protections provided in the Fourth Amendment of the United States Constitution as implemented through Executive Order No. 12333.

SEC. 8112. For purposes of section 612 of title 41, United States Code, any subdivision of appropriations made under the heading ''Shipbuilding and Conversion, Navy'' that is not closed at the time reimbursement is made shall be available to reimburse the Judgment Fund and shall be considered for the same purposes as any subdivision under the heading ''Shipbuilding and Conversion, Navy'' appropriations in the current fiscal year or any prior fiscal year.

(TRANSFER OF FUNDS)

SEC. 8113. Upon enactment of this Act, the Secretary of Defense shall make the following transfer of funds: Provided, That funds so transferred shall be merged with and shall be available for the same purpose and for the same time period as the appropriation to which transferred: Provided further, That the amounts shall be transferred between the following appropriations in the amounts specified:

From:

Under the heading, ''Shipbuilding and Conversion, Navy, 2003/2007'':

For outfitting, post delivery, conversions, and first destination transportation, $3,300,000;

Under the heading, ''Shipbuilding and Conversion, Navy, 2004/2008'':

For outfitting, post delivery, conversions, and first destination transportation, $6,100,000;

To:

Under the heading, ''Shipbuilding and Conversion, Navy, 2003/2007'':

SSGN, $3,300,000.

Under the heading, ''Shipbuilding and Conversion, Navy, 2004/2008'':

SSGN, $6,100,000.

SEC. 8114. None of the funds in this Act may be obligated for a classified program as described on page 18 of the compartmented annex to Volume IV of the Fiscal Year 2006 National Intelligence Program justification book unless specifically authorized in the Intelligence Authorization Act for Fiscal Year 2006.

SEC. 8115. (a) The Director of the Office of Management and Budget shall, in coordination with the Secretary of Defense and the Secretary of Homeland Security, conduct a study on improving the response of the Federal Government to disasters.

(b) The study under subsection (a) shall—

(1) consider mechanisms for coordinating and expediting disaster response efforts;

(2) examine the role of the Department of Defense in participating in disaster response efforts, including by providing planning, logistics, and relief and reconstruction assistance;

(3) consider the establishment of criteria for automatically triggering the participation of the Department of Defense in disaster response efforts; and

(4) assess the role of the United States Geological Survey in enhancing disaster preparation measures.

(c) Not later than May 1, 2006, the Director of the Office of Management and Budget shall submit to Congress a report on the study conducted under subsection (a), including—

(1) recommendations for improving the response of the Federal Government to disasters, including by providing for greater participation by the Department of Defense in response efforts; and

(2) proposals for any legislation or regulations that the Director determines necessary to implement such recommendations.

TITLE IX—ADDITIONAL WAR-RELATED APPROPRIATIONS

DEPARTMENT OF DEFENSE—MILITARY

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For an additional amount for ''Military Personnel, Army'', $5,009,420,000.

MILITARY PERSONNEL, NAVY

For an additional amount for ''Military Personnel, Navy'', $180,000.

MILITARY PERSONNEL, MARINE CORPS

For an additional amount for ''Military Personnel, Marine Corps'', $455,420,000.

MILITARY PERSONNEL, AIR FORCE

For an additional amount for ''Military Personnel, Air Force'', $372,480,000.

RESERVE PERSONNEL, ARMY

For an additional amount for ''Reserve Personnel, Army'', $121,500,000.

RESERVE PERSONNEL, NAVY

For an additional amount for ''Reserve Personnel, Navy'', $10,000,000.

NATIONAL GUARD PERSONNEL, ARMY

For an additional amount for ''National Guard Personnel, Army'', $232,300,000.

NATIONAL GUARD PERSONNEL, AIR FORCE

For an additional amount for ''National Guard Personnel, Air Force'', $5,300,000.

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For an additional amount for ''Operation and Maintenance, Army'', $21,915,547,000.

OPERATION AND MAINTENANCE, NAVY

For an additional amount for ''Operation and Maintenance, Navy'', $1,806,400,000.

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for ''Operation and Maintenance, Marine Corps'', $1,275,800,000.

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for ''Operation and Maintenance, Air Force'', $2,014,900,000.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

For an additional amount for ''Operation and Maintenance, Defense-Wide'', $980,000,000, of which up to $195,000,000, to remain available until expended, may be used for payments to reimburse Pakistan, Jordan, and other key cooperating nations, for logistical, military, and other support provided, or to be provided, to United States military operations, notwithstanding any other provision of law: Provided, That such payments may be made in such amounts as the Secretary of Defense, with the concurrence of the Secretary of State, and in consultation with the Director of the Office of Management and Budget, may determine, in his discretion, based on documentation determined by the Secretary of Defense to adequately account for the support provided, and such determination is final and conclusive upon the accounting officers of the United States, and 15 days following notification to the appropriate congressional committees: Provided further, That the Secretary of Defense shall provide quarterly reports to the congressional defense committees on the use of funds provided in this paragraph.

OPERATION AND MAINTENANCE, ARMY RESERVE

For an additional amount for ''Operation and Maintenance, Army Reserve'', $53,700,000.

OPERATION AND MAINTENANCE, NAVY RESERVE

For an additional amount for ''Operation and Maintenance, Navy Reserve'', $9,400,000.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For an additional amount for ''Operation and Maintenance, Marine Corps Reserve'', $27,950,000.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For an additional amount for ''Operation and Maintenance, Air Force Reserve'', $7,000,000.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For an additional amount for ''Operation and Maintenance, Army National Guard'', $201,300,000.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For an additional amount for ''Operation and Maintenance, Air National Guard'', $13,400,000.

IRAQ FREEDOM FUND

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Iraq Freedom Fund'', $4,100,000,000, to remain available for transfer until September 30, 2006, only to support operations in Iraq or Afghanistan and classified activities: Provided, That the Secretary of Defense may transfer the funds provided herein to appropriations for military personnel; operation and maintenance; Overseas Humanitarian, Disaster, and Civic Aid; procurement; research, development, test and evaluation; the Defense Health Program; and working capital funds: Provided further, That of the amounts provided under this heading, $2,850,000,000 shall only be for classified programs, described in further detail in the classified annex accompanying this Act: Provided further, That $750,000,000 shall be available for the Joint IED Defeat Task Force: Provided further, That funds transferred shall be merged with and be available for the same purposes and for the same time period as the appropriation or fund to which transferred: Provided further, That this transfer authority is in addition to any other transfer authority available to the Department of Defense: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: Provided further, That the Secretary of Defense shall, not fewer than 5 days prior to making transfers from this appropriation, notify the congressional defense committees in writing of the details of any such transfer: Provided further, That the Secretary shall submit a report no later than 30 days after the end of each fiscal quarter to the congressional defense committees summarizing the details of the transfer of funds from this appropriation.

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For an additional amount for ''Aircraft Procurement, Army'', $348,100,000, to remain available until September 30, 2008.

MISSILE PROCUREMENT, ARMY

For an additional amount for ''Missile Procurement, Army'', $80,000,000, to remain available until September 30, 2008.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For an additional amount for ''Procurement of Weapons and Tracked Combat Vehicles, Army'', $910,700,000, to remain available until September 30, 2008.

PROCUREMENT OF AMMUNITION, ARMY

For an additional amount for ''Procurement of Ammunition, Army'', $335,780,000, to remain available until September 30, 2008.

OTHER PROCUREMENT, ARMY

For an additional amount for ''Other Procurement, Army'', $3,916,000,000, to remain available until September 30, 2008.

AIRCRAFT PROCUREMENT, NAVY

For an additional amount for ''Aircraft Procurement, Navy'', $151,537,000, to remain available until September 30, 2008.

WEAPONS PROCUREMENT, NAVY

For an additional amount for ''Weapons Procurement, Navy'', $56,700,000, to remain available until September 30, 2008.

PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS

For an additional amount for ''Procurement of Ammunition, Navy and Marine Corps'', $48,485,000, to remain available until September 30, 2008.

OTHER PROCUREMENT, NAVY

For an additional amount for ''Other Procurement, Navy'', $116,048,000, to remain available until September 30, 2008.

PROCUREMENT, MARINE CORPS

For an additional amount for ''Procurement, Marine Corps'', $2,303,700,000, to remain available until September 30, 2008.

AIRCRAFT PROCUREMENT, AIR FORCE

For an additional amount for ''Aircraft Procurement, Air Force'', $118,058,000, to remain available until September 30, 2008.

MISSILE PROCUREMENT, AIR FORCE

For an additional amount for ''Missile Procurement, Air Force'', $17,000,000, to remain available until September 30, 2008.

OTHER PROCUREMENT, AIR FORCE

For an additional amount for ''Other Procurement, Air Force'', $17,500,000, to remain available until September 30, 2008.

PROCUREMENT, DEFENSE-WIDE

For an additional amount for ''Procurement, Defense-Wide'', $132,075,000, to remain available until September 30, 2008.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For an additional amount for ''Research, Development, Test and Evaluation, Army'', $72,000,000, to remain available until September 30, 2007.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For an additional amount for ''Research, Development, Test and Evaluation, Air Force'', $17,800,000, to remain available until September 30, 2007.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

For an additional amount for ''Research, Development, Test and Evaluation, Defense-Wide'', $2,500,000, to remain available until September 30, 2007.

REVOLVING AND MANAGEMENT FUNDS

DEFENSE WORKING CAPITAL FUNDS

For an additional amount for ''Defense Working Capital Funds'', $2,716,400,000.

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

For an additional amount for ''Drug Interdiction and Counter-drug Activities, Defense'', $27,620,000.

GENERAL PROVISIONS, TITLE IX

SEC. 9001. Appropriations provided in this title are available for obligation until September 30, 2006, unless otherwise so provided in this title.

SEC. 9002. Notwithstanding any other provision of law or of this Act, funds made available in this title are in addition to amounts provided elsewhere in this Act.

(TRANSFER OF FUNDS)

SEC. 9003. Upon his determination that such action is necessary in the national interest, the Secretary of Defense may transfer between appropriations up to $2,500,000,000 of the funds made available to the Department of Defense in this title: Provided, That the Secretary shall notify the Congress promptly of each transfer made pursuant to the authority in this section: Provided further, That the authority provided in this section is in addition to any other transfer authority available to the Department of Defense and is subject to the same terms and conditions as the authority provided in section 8005 of this Act.

SEC. 9004. Funds appropriated in this title, or made available by the transfer of funds in or pursuant to this title, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414).

SEC. 9005. None of the funds provided in this title may be used to finance programs or activities denied by Congress in fiscal years 2005 and 2006 appropriations to the Department of Defense or to initiate a procurement or research, development, test and evaluation new start program without prior written notification to the congressional defense committees.

SEC. 9006. Notwithstanding any other provision of law, from funds made available in this title to the Department of Defense for operation and maintenance, not to exceed $500,000,000 may be used by the Secretary of Defense, with the concurrence of the Secretary of State, to train, equip and provide related assistance only to the New Iraqi Army and the Afghan National Army to enhance their capability to combat terrorism and to support U.S. military operations in Iraq and Afghanistan: Provided, That such assistance may include the provision of equipment, supplies, services, training and funding: Provided further, That the authority to provide assistance under this section is in addition to any other authority to provide assistance to foreign nations: Provided further, That the Secretary of Defense shall notify the congressional defense committees, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate not less than 15 days before providing assistance under the authority of this section.

SEC. 9007. (a) From funds made available in this title to the Department of Defense, not to exceed $500,000,000 may be used, notwithstanding any other provision of law, to fund the Commander's Emergency Response Program, for the purpose of enabling military commanders in Iraq to respond to urgent humanitarian relief and reconstruction requirements within their areas of responsibility by carrying out programs that will immediately assist the Iraqi people, and to fund a similar program to assist the people of Afghanistan.

(b) QUARTERLY REPORTS.—Not later than 15 days after the end of each fiscal year quarter (beginning with the first quarter of fiscal year 2006), the Secretary of Defense shall submit to the congressional defense committees a report regarding the source of funds and the allocation and use of funds during that quarter that were made available pursuant to the authority provided in this section or under any other provision of law for the purposes of the programs under subsection (a).

SEC. 9008. Amounts provided in this title for operations in Iraq and Afghanistan may be used by the Department of Defense for the purchase of heavy and light armored vehicles for force protection purposes, notwithstanding price or other limitations specified elsewhere in this Act, or any other provision of law: Provided, That the Secretary of Defense shall submit a report in writing no later than 30 days after the end of each fiscal quarter notifying the congressional defense committees of any purchase described in this section, including the cost, purposes, and quantities of vehicles purchased.

SEC. 9009. During the current fiscal year, funds available to the Department of Defense for operation and maintenance may be used, notwithstanding any other provision of law, to provide supplies, services, transportation, including airlift and sealift, and other logistical support to coalition forces supporting military and stability operations in Iraq and Afghanistan: Provided, That the Secretary of Defense shall provide quarterly reports to the congressional defense committees regarding support provided under this section.

SEC. 9010. (a) Not later than 60 days after the date of the enactment of this Act and every 90 days thereafter through the end of fiscal year 2006, the Secretary of Defense shall set forth in a report to Congress a comprehensive set of performance indicators and measures for progress toward military and political stability in Iraq.

(b) The report shall include performance standards and goals for security, economic, and security force training objectives in Iraq together with a notional timetable for achieving these goals.

(c) In specific, the report requires, at a minimum, the following:

(1) With respect to stability and security in Iraq, the following:

(A) Key measures of political stability, including the important political milestones that must be achieved over the next several years.

(B) The primary indicators of a stable security environment in Iraq, such as number of engagements per day, numbers of trained Iraqi forces, and trends relating to numbers and types of ethnic and religious-based hostile encounters.

(C) An assessment of the estimated strength of the insurgency in Iraq and the extent to which it is composed of non-Iraqi fighters.

(D) A description of all militias operating in Iraq, including the number, size, equipment strength, military effectiveness, sources of support, legal status, and efforts to disarm or reintegrate each militia.

(E) Key indicators of economic activity that should be considered the most important for determining the prospects of stability in Iraq, including—

(i) unemployment levels;

(ii) electricity, water, and oil production rates; and

(iii) hunger and poverty levels.

(F) The criteria the Administration will use to determine when it is safe to begin withdrawing United States forces from Iraq.

(2) With respect to the training and performance of security forces in Iraq, the following:

(A) The training provided Iraqi military and other Ministry of Defense forces and the equipment used by such forces.

(B) Key criteria for assessing the capabilities and readiness of the Iraqi military and other Ministry of Defense forces, goals for achieving certain capability and readiness levels (as well as for recruiting, training, and equipping these forces), and the milestones and notional timetable for achieving these goals.

(C) The operational readiness status of the Iraqi military forces, including the type, number, size, and organizational structure of Iraqi battalions that are—

(i) capable of conducting counterinsurgency operations independently;

(ii) capable of conducting counterinsurgency operations with the support of United States or coalition forces; or

(iii) not ready to conduct counterinsurgency operations.

(D) The rates of absenteeism in the Iraqi military forces and the extent to which insurgents have infiltrated such forces.

(E) The training provided Iraqi police and other Ministry of Interior forces and the equipment used by such forces.

(F) Key criteria for assessing the capabilities and readiness of the Iraqi police and other Ministry of Interior forces, goals for achieving certain capability and readiness levels (as well as for recruiting, training, and equipping), and the milestones and notional timetable for achieving these goals, including—

(i) the number of police recruits that have received classroom training and the duration of such instruction;

(ii) the number of veteran police officers who have received classroom instruction and the duration of such instruction;

(iii) the number of police candidates screened by the Iraqi Police Screening Service, the number of candidates derived from other entry procedures, and the success rates of those groups of candidates;

(iv) the number of Iraqi police forces who have received field training by international police trainers and the duration of such instruction; and

(v) attrition rates and measures of absenteeism and infiltration by insurgents.

(G) The estimated total number of Iraqi battalions needed for the Iraqi security forces to perform duties now being undertaken by coalition forces, including defending the borders of Iraq and providing adequate levels of law and order throughout Iraq.

(H) The effectiveness of the Iraqi military and police officer cadres and the chain of command.

(I) The number of United States and coalition advisors needed to support the Iraqi security forces and associated ministries.

(J) An assessment, in a classified annex if necessary, of United States military requirements, including planned force rotations, through the end of calendar year 2006.

SEC. 9011. Congress, consistent with international and United States law, reaffirms that torture of prisoners of war and detainees is illegal and does not reflect the policies of the United States Government or the values of the people of the United States.

SEC. 9012. Supervision and administration costs associated with a construction project funded with appropriations available for operation and maintenance, and executed in direct support of the Global War on Terrorism only in Iraq and Afghanistan, may be obligated at the time a construction contract is awarded: Provided, That for the purpose of this section, supervision and administration costs include all in-house Government cost.

SEC. 9013. Amounts appropriated or otherwise made available in this title are designated as making appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

This Act may be cited as the ''Department of Defense Appropriations Act, 2006''.

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

Mr. STEVENS. Along with the Senator from Hawaii, I am pleased to present the Defense appropriations bill for 2006. This bill reflects the bipartisan approach that my cochairman, Senator INOUYE, and I have always maintained regarding the Department of Defense. It is, once again, a pleasure

to work with him on this bill and with other members of our subcommittee and the full Appropriations Committee through this process.

This bill was reported out of the full Appropriations Committee yesterday by a unanimous vote of 28 to 0. We have worked hard to make certain the bill reaches out and is understood, is appreciated, and supported by every member of our Appropriations Committee.

As we will be debating this bill, there are hundreds of thousands of men and women in uniform forward deployed and serving our country in over 120 countries and also throughout the United States. Their bravery and dedication to our country are extraordinary, and their sacrifices do not go unnoticed.

Each year, the Department of Defense faces critical challenges. The Department must ensure that we can maintain high levels of readiness and we are able to respond to the call of duty wherever and whenever it is necessary. And it must ensure we are simultaneously invested in the resources which will enable us to meet the threats of tomorrow.

This bill, which Senator INOUYE and I will present I hope today, reflects a prudent balance among those challenges. It recommends $440.2 billion in budget authority for the Department of Defense. This funding includes $50 billion for contingency operations related to the global war on terrorism pursuant to section 402 of the concurrent budget resolution on the budget for 2006.

While this bill is a $7 billion reduction from that provided in the President's budget request for 2006, it still meets the Defense Subcommittee's allocation for both budget authority and outlays, and it is consistent with the objectives of this administration and the recommendations contained in the Senate national defense authorization bill for 2006 as it was reported.

We have sought to recommend a balanced bill to the Senate. We believe this bill addresses key requirements for readiness, quality of life, and transformation of the force. This bill will honor our commitment to our Armed Forces. It helps ensure they will continue to have first-rate training, modernized equipment, and quality infrastructure. It also provides the funds needed to continue the global war on terrorism.

Mr. President, yesterday Senator INOUYE and I met with GEN John Abizaid, Commander of the U.S. Central Command, and GEN George Casey, the Commander of the multinational force in Iraq, to discuss the global war on terrorism and the current situation in Iraq.

The central command, with its responsibility for the Middle East, the Horn of Africa, parts of south Asia, and central Asia, has the lead in fighting this war on terrorism. It is a war that some envision may last for several generations. I am not talking about the war in Iraq. I am talking about the overall war on terrorism. And I repeat, we are informed that is a war that many envision will last for generations.

The terrorists we face view this war as a worldwide crusade for their ideology, a war that they are willing to win at all costs, at least try to win at all costs. In fact, they see that inflicting suffering on innocent civilians furthers their cause. In my view, the United States has to lead the world in fighting this terrorist movement. We must remain resilient. We must set the example. We must stay the course.

Our meeting with Generals Abizaid and Casey was both insightful and disturbing, but I am convinced our country has entrusted this global war on terrorism to two very capable leaders. They understand the challenges we face and are committed to successfully prosecuting this war on terrorism.

We also talked about the strategy in Iraq and agreed that building local Iraq military capacity is a central tenet to our success there. General Abizaid and General Casey informed us that Iraqi security forces are already in charge of large parts of Iraq. Fourteen of the country's 18 provinces are now in charge of their own force.

Last year, before the Iraqi elections, we deployed an additional 12,000 troops to maintain stability throughout the countryside. This year, our senior commanders have only requested 2,000 troops for that same purpose. Let me repeat that. When they had an election last year, it was believed that 12,000 troops, our troops, in addition to the forces there, were needed to help maintain stability throughout the countryside. This year, senior commanders have only requested 2,000 troops for that. Although this is a small metric, it is tangible proof of forward progress and tangible proof that the Iraqis can, will, and are taking over substantial responsibility to meet the problems in their own country.

Currently, our military leaders have assigned 8 to 10 military personnel to each and every Iraqi unit as advisers. They are helping Iraqi units leverage their strength and shore up their weaknesses.

There are those who say we should accelerate this process, training more Iraqi forces faster so we can bring U.S. troops home sooner. this sounds like a straightforward solution, but the situation is not so simple or clear-cut.

Earlier this month, along with Senators WARNER and KERRY, I traveled to Iraq, and I repeatedly asked two questions: Can we speed up the training and equipping of Iraqi forces? And even more fundamentally, I asked of those there, both Iraqis and Americans, what do they think about our mission in Iraq.

On the first question, the unanimous feedback from U.S. civilian and military officials was that we cannot be rushed in the process of training Iraqis. It must be done in a careful and measured way.

The U.S. Government is not only helping to build Iraqi forces, we are building capacity both within the Iraqi ministries and the security forces within the Government itself. The Iraqi Government must assume responsibility for these forces, which means after the United States equips and trains these people, the Iraqis must pay their way and sustain them. This may lead to a drawdown of U.S. forces at an appropriate time in the future, but a premature withdrawal of U.S. forces would be disastrous for the Iraqi people and for the world. We must continue to demonstrate our commitment that we will stay in Iraq until our mission is complete and remain engaged in a mission so that we are certain that the Iraqis will complete that and be able to sustain their new Government.

The second question I asked was: What do you think of our mission in Iraq? The response I received was unanimous. U.S. civilians, our men and women in uniform, told me they believe we are doing what is important, that we should stay the course and get the job done, do our job.

I was impressed with the fact that so many young military people, when I asked them how long they had been there, told me they had been there two and three times, and they had asked to come back so they were sure they had a part in finishing the job we undertook in Iraq.

Senator INOUYE and I are part of a different generation. We are what is left of the World War II generation in the Senate. Our generation had no doubt about our duty. I believe the young men and women of today's Armed Forces share our commitment to preserve and protect freedom. Our visit with them was inspiring, and many times it left tears in my eyes. These young men and women make me proud to be an American. Every one of them volunteered to enter the armed services. There are no draftees in Iraq. I promised them that I am going to be back again to make certain they have the materials and the support they need.

On this same trip, we traveled throughout the region to Kuwait, Turkey, and other countries where we visited with senior NATO officials. They, too, talked about the broad problem of the world, the threat of international terrorism. These military leaders from other countries, as well as ours, and NATO highlighted the need for the United States to take the lead on the global war on terrorism and to continue to assist our friends and allies in Iraq, Afghanistan, Africa, and Europe, to make sure this crusade does not take root, that it does not gather steam.

The bill we will place before the Senate will enable us to maintain our commitment and our support of these troops. I am proud again to thank my cochairman, my friend for so many years, for his support and invaluable counsel on this bill. I thank Sid

Ashworth, who has worked with me, and Charlie Houy, who has worked with Senator INOUYE, and recognize them for their tremendous efforts on this bill. We have all worked together for a long time now, and I believe this is as good a bill as we have ever brought before the Senate, represented by the vote I mentioned. Every member of the full Appropriations Committee voted that we should be allowed to bring this bill to the floor.

I hope that sometime today that will be possible. I hope my friend understands the circumstances under which we are making statements.

I yield the floor.

The PRESIDING OFFICER (Mr. MARTINEZ). The Senator from Hawaii.

Mr. INOUYE. Mr. President, I rise today to offer my strong endorsement of H.R. 2863, the fiscal year 2006 Defense appropriations bill. As the chairman noted, this bill was unanimously approved by the Appropriations Committee. It is a bipartisan bill which was crafted by Chairman STEVENS with the full involvement of the minority.

In compliance with the committee allocations, this bill is $7 billion lower than the amount requested by the administration. As such, the committee had to make several difficult decisions to meet the reduced level. Even under these conditions, I can assure my colleagues that this is a very good bill which will meet our national security needs for the coming year.

The top priority of this measure is to ensure that we provide for the well-being of our men and women in uniform and their families. The bill includes a 3.1-percent pay raise, and it provides $19.3 billion to run our military hospitals and pay for the other day-to-day health care costs for our forces.

Not counting the costs of operations in Afghanistan and Iraq, this measure includes nearly $125 billion to safeguard military readiness and pay for other routine operations of the Department of Defense.

As most of my colleagues are surely aware, recruiting has become a greater challenge in recent years. So I am pleased to note that this bill includes $622 million above the budgeted amount to improve recruiting tools so that we can maintain the highest quality in our military. Furthermore, a total of $146 billion is recommended in this bill for investing in much needed equipment for our forces today and our forces of the future.

We all know that the war in Iraq is controversial, on which many of our colleagues have very strong opinions. But I believe what we all agree upon is the need to support our troops who are now serving in harm's way. To that end, the bill provides an additional $50 billion for pay, operations, and equipment to support our fighting forces overseas. These funds are essential to support these brave men and women.

Today is September 29. The fiscal year ends tomorrow. It is imperative that we move this bill as quickly as possible. After Senate passage, the committee will still need to take this bill into conference. Because of that, I would urge my colleagues not to offer amendments to this bill which might be better suited for other legislation except to meet truly emergency requirements. I believe there will be plenty of time in the coming months to consider issues which are not relevant to this defense spending measure.

This is a good bill. I strongly support it and urge all of my colleagues to do so as well.

Mr. STEVENS. Mr. President, I say to my colleagues that the classified annex that accompanies the 2006 Defense appropriations bill is available in S407 for all Members and those staffs who have appropriate clearance. There has been a request that we distribute this to Members' offices. That is prohibited. We must keep these documents in a classified area, and only those who are cleared may have access to them. This annex is available in S407. We will make arrangements for that room to stay open whatever time the Senators and their cleared staff wish to have access to it, but it is not possible for us to distribute.

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. STEVENS. 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 PRESIDING OFFICER. The Senator from Iowa.

AMENDMENT NO. 1886

(Purpose: To make available emergency funds for pandemic flu preparedness)

Mr. HARKIN. Mr. President, I have an amendment I send to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for himself, Mr. OBAMA, Mr. REID, Mr. KENNEDY, Mr. DURBIN, Mr. BAYH, Mr. DODD, Mr. SCHUMER, and Mr. REED, proposes an amendment numbered 1886:

On page , at the appropriate place at the end of Title 9, insert the following:

TITLE .

SEC. 101.

(a) From the money in the Treasury not otherwise obligated or appropriated, there are appropriated to the Centers for Disease Control and Prevention $3,913,000,000 for activities relating to the avian flu epidemic during the fiscal year ending September 30, 2006, which shall be available until expended.

(b) Of the amount appropriated under subsection (a)—

(1) $3,080,000,000 shall be for the stockpiling of antivirals and necessary medical supplies

(2) $33,000,000 shall be for global surveillance relating to avian flu

(3) $125,000,000 shall be to increase the national investment in domestic vaccine infrastructure including development and research

(4) $600,000,000 shall be for additional grants to state and local public health agencies for emergency preparedness, to increase funding for emergency preparedness centers, and to expand hospital surge capacity

(5) $75,000,000 shall be for risk communication and outreach to providers, businesses, and to the American public

(c) The amount appropriated under subsection (a)

(1) is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress); and

(2) shall remain available until expended.

(d) This title shall take effect on the date of enactment of this Act.

ORDER OF PROCEDURE

Mr. STEVENS. Mr. President, I ask unanimous consent that there be a period of routine morning business between the hours of 2:30 p.m. and 4 p.m. today. Senators have been invited to the White House to attend the swearing in of Judge Roberts. Buses will be provided for transportation. We will not conduct business during the period of that important event.

The PRESIDING OFFICER. Is there objection?

The Democratic leader.

Mr. REID. Mr. President, would the distinguished President pro tempore of the Senate allow us to be in a period of morning business during that period of time? There are some people who want to come and talk.

Mr. STEVENS. I am asking for morning business during that period. There would be morning business with no votes from 2:30 to 4 o'clock.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Iowa.

Mr. HARKIN. Mr. President, I wanted the amendment I sent to the desk read because I want those who are not here, who are maybe in their offices, and their staff to understand what it is. It is not that long of an amendment. It basically tracks what I said earlier in my opening statement.

I wish to respond a little bit to what was said on the floor just a minute ago. First of all, I point out to the Senator from Alaska that maybe this might be more appropriate on the Labor-HHS bill, the Labor-Health and Human Services appropriations bill.

I remind people, tomorrow is the end of the fiscal year. They have not brought the Labor-Health and Human Services appropriations bill to the floor. We do not know if they are ever going to bring it to the floor. So we do not have an opportunity to offer it there. The Defense authorization bill was up, and they took that off the floor. So I have not had an opportunity to offer it there.

Now we have Defense appropriations. Quite frankly, this is about defense. It is about defending our people—not against a terrorist but against terrorism, the terrorism of an avian flu pandemic. That is what this is about.

Now, I heard the Senator talk about BioShield. Well, I think maybe we ought to understand that BioShield money cannot be used for this because BioShield money can only be used for

drugs for which there is no commercial market. Obviously there is a great commercial market for Tamiflu.

So they can have all kinds of study groups and stuff going on down at the White House, but they have been privy to this information for a long time down at the White House, I say to my colleagues, more privy to this information than we have been. So if people are saying, ''Well, why are you offering this now?'' I am offering it now because it is the midnight hour. We have to do something about this. We have to put the money up there. We have to get moving on it now—not next year, not after some study group in the White House has banged this thing around for another 3 months.

Who is in charge of this study group? I do not know. We had a briefing yesterday by Secretary Leavitt, Dr. Fauci, Dr. Gerberding, others. I thought it very unusual we would have a top-secret meeting, a briefing. Be that as it may, that is what they wanted to do. It became clear to me we have to do something. We can't dawdle any longer.

The Senator said there is a task force at the White House working under BioShield. That is not what this is about. BioShield, fine, that has its own process. There is a reason for BioShield, for developing drugs that have no commercial market. That is not what this is about. This is about money for surveillance, quarantine. It is about money for building up local public health facilities, buying antivirals to cover half of our people. There is a market for that. We just don't have them; that is all. It is about putting money into vaccine production.

We only have one flu vaccine manufacturing plant in America. I am told the reason for that is because there is not much profit in vaccines, not like Viagra or Cyalis, drugs such as that. I can't fault the drug companies. There is no money to be made from this. They are in the business of answering to their shareholders. This is a proper place for Government interference, interjection.

Some of the things I heard from Alaska didn't comport with what we are trying to do. H5N1, the virus that struck in Southeast Asia, was isolated. We brought it back to NIH. They have been developing a vaccine based on H5N1. Preliminary reports are promising, but we are not there yet. The problem is, if we run off on a tangent, all we do is make the vaccine for H5N1, we might be invaded by H5N2 or 3, or 4 or 5, some other mutation, and that vaccine may not be adaptable for that. That is why we need to build up the vaccination manufacturing capability in this country.

Yes, we need to be preparing the vaccine for H5N1, but we have to build up capacity for rapidly developing other vaccines in case it is a mutation and is not that virus. Keep in mind, this is not some scenario of maybe. When you talk to the people at the Centers for Disease Control and Prevention or NIH, they say it is not a matter of if, it is when. We have to be prepared.

We had warnings before. We had warnings about Katrina. We knew things weren't adequate in New Orleans and the gulf coast. We had a lot of warnings before 9/11 about terrorists blowing up the World Trade Center, using airplanes as weapons. We had all those warnings. We ignored them. We cannot afford to ignore this.

The chairman raised all kinds of arguments as to why this should not be on the Defense appropriations bill. Well, we don't have any other bill. It is before us. This is a money matter. It has to do with using Government money to get us ready. Quite frankly, I can think of a better place than the appropriations bill.

The Senator from Alaska also said this has never happened where we have done something that didn't pertain to our troops and defense on an appropriations bill. I am sorry. About 14 years ago, I offered an amendment to increase funding for breast cancer research to the Defense appropriations bill, and it was adopted. Quite frankly, I must say, the DOD has done a great job in utilizing those funds ever since, and the money we put in after that. They have done some of the best grant programs on breast cancer research. That didn't have anything to do with troops in the field, but it was added to the Defense bill. That is not the only example. There are others. I mentioned that one because I happened to be involved. To say we have never done this before on a Defense appropriations bill is not factual.

I am hopeful we can get to a vote on this amendment and have a strong bipartisan vote on this bill to get us ready and to reassure our people that we are going to defend them to the maximum extent possible from an outbreak of avian flu.

I yield the floor.

The PRESIDING OFFICER (Mr. THUNE). The Senator from North Carolina.

Mr. BURR. Mr. President, I rise to commend my colleague from Iowa. My colleague recognizes the need for this country to prepare for a possible influenza pandemic. I am not here to be a historian, to determine what has happened in the past on Defense appropriations bills. I will share that disease surveillance is not something new. It occurs day in and day out. The Centers for Disease Control is an active participant in the surveillance efforts for a potential global outbreak of avian flu. Post-9/11, this country became not only concerned but began actively preparing for consequences of chemical, biological, and radiological threats that could be used by terrorists.

We should pause and remind ourselves these potential acts can be deliberate, accidental, or natural. Clearly, the threat of avian flu is a natural occurrence. The Centers for Disease Control, the World Health Organization, all participate in preventing the spread of avian flu and work to make us better understand when that threat may affect us here at home.

The Senator from Iowa targets a number of things that are very appropriate and important: stockpiles, global surveillance, a national investment in domestic vaccine infrastructure, additional grant moneys for local public health agencies. But clearly, the chairman of the Appropriations Committee is right; the majority of these need to be considered in and appropriated from the committees that have jurisdiction over the relevant agencies—the National Institutes of Health, the Centers for Disease Control.

We are all alarmed about any of these threats, whether it is deliberate, accidental, or natural. This year the Subcommittee on Bioterrorism and Public Preparedness has held six hearings and/or roundtables on this subject. We have examined the infrastructure we currently have to research, develop, and approve countermeasures against all of these threats. These countermeasures can be antivirals, as the Senator spoke of, for avian flu. They could be vaccines, as we have already purchased with BioShield, for anthrax for example. We are committed to ensure that we have the right kinds of countermeasures to protect the American public.

But we have a fiduciary responsibility to the American people, too. That is to make sure that we do not invest billions and billions and billions of dollars into a stockpile that, in fact, has a life expectancy shorter than the threat.

I have come to plead with my colleagues, let's approach this in a comprehensive way. Let's, in fact, put together a plan that addresses not only avian flu but all of those chemical, biological, radiological threats that exist today. I remind you of the threat from anthrax and smallpox we have debated in this building before this date. I remind my colleagues that we have currently invested some $800 million for anthrax vaccines for the national stockpile. We have this week received a briefing from the Secretary of Health and Human Services, as Senator HARKIN said, and the Director of the CDC and the head of National Institute for Allergies and Infectious Diseases during which they talked about their initial approach to the threat of avian flu. I stress the word ''initial'' because it is yet to have the input of this body, of the committees, and the subcommittees that have held hearings, that have met with representatives from industry, that understand the deficiencies in our infrastructure to confront this and other similar threats.

Vaccine shortages are not just an infrastructure deficiency for avian flu. There is a deficiency across the board for vaccines in this country, in large part because of the policies we have adopted. I suggest this is not an issue we can just throw money at. This is an

issue that needs a comprehensive plan and approach as to how we set up a structure and mechanism so we are not on this floor in the future talking about further deficiencies. In many cases, everything Senator HARKIN lists will be components of comprehensive legislation that we plan to deal with how much and what we should stockpile. It will deal with global surveillance and whether we can do it better than we do today. It will deal with the vaccine infrastructure and our reliance on having the manufacturing, research, and development capabilities on the shores of the United States and not have us reliant on a company that might have a facility outside of the United States.

Once again, I urge my colleagues, let's do it in a comprehensive way so we are prepared to move forward in an expedited process that would answer all these questions before we adjourn this calendar year.

Mr. HARKIN. Will the Senator yield?

Mr. BURR. I am happy to yield.

The PRESIDING OFFICER. The minority leader.

Mr. HARKIN. Mr. President, I was yielded to for a question.

The PRESIDING OFFICER. The Senator from North Carolina yielded for a question to the Senator from Iowa.

Mr. BURR. Will the Senator from Iowa allow me to yield to the minority leader?

Mr. HARKIN. Absolutely.

I thank the Senator. He is a very thoughtful individual and chairman of the Bioterrorism Subcommittee on which I sit. He has given a thoughtful response. I respect that. I think there is a certain logic to what the Senator has said. I might use the phrase ''seductive logic,'' because obviously there is a lot more out there than just this.

I respond to my friend by using an analogy: Just as I thought, it was wrong to put FEMA under Homeland Security because they are two different things. Homeland Security has to do with terrorism, that kind of threat; FEMA, natural disasters. I still think those should be separate. I thought it was wrong before to put them together. This is also the same kind of thing. The bioterrorism the chairman has been doing a great job at, that is one thing. The surveillance that is needed for terrorism and things such as that is different than the kind of surveillance needed by the CDCP in terms of a flu outbreak. You are talking about different people, different disciplines, a whole different set of parameters other than fighting some kind of biological terrorist threat.

So while there may be logic, at some point, for doing this in a broader authorization bill—that is fine—I am saying to my friend, I don't think we have time to wait for that. I don't know when the bill would come up. Secondly, as I said to the chairman of this committee, this probably ought to be on the Labor-Health and Human Services appropriations bill. But that has not been brought up, and I don't know if it is ever going to be brought up.

So my thinking is that because of the urgency of this—and the Senator and I heard the briefing yesterday—I thought we ought to at least do something to get this thing moving and moving now rather be waiting to January or February or who knows when. So I submit to the chairman that while he has logic in what he says in putting this together, I think in this one case it has to be separated out right now. That is all I am trying to say.

Mr. BURR. Mr. President, let me try to connect the logic with the reality, that if the Senator permits me, I will sit down with him next week. I believe I can show him at least the initial language that puts this altogether in a comprehensive way and in fact addresses not only the deliberate and accidental biological, chemical, and radiological threats but also includes the natural threat that avian flu clearly emanates from. I believe there is a new structure, not an existing structure, within the framework that will work, and if the Senator will work with me next week, I think his comfort level would be as great as mine today that we can address this threat in a comprehensive way, and that is a pledge that we will do it expeditiously, this year.

Mr. HARKIN. I say to my friend, if he will yield further, I appreciate it. I would like to work with him on this, and I think our staffs have been, but again I am not certain when we are going to get to the appropriation on that. That is what I don't know. When will we ever get to an appropriation on that? I say to my friend, I don't know. As I said, there is a logic in what he is saying. I am saying because of the problem of avian flu, because it could be so imminent, I don't think we have any days to wait. That is all I am saying.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina holds time.

Mr. BURR. I would be happy to yield time to the minority leader.

Mr. REID. The Senator doesn't need to recognize me. The Chair needs to recognize me. Is he finished?

Mr. BURR. Does the Senator need time before 2:30?

Mr. REID. I don't know. Are we under controlled time?

The PRESIDING OFFICER. The Senate is not under controlled time.

Mr. REID. I would like to be recognized.

The PRESIDING OFFICER. Does the Senator from North Carolina yield the floor?

Mr. BURR. If the minority leader will allow me a few more minutes, I will conclude my comments as they relate to the amendment by the Senator from Iowa.

Let me say, if I can, for the purposes of what the Senator raised with me, there is a willingness on the part of Members on both sides of the aisle that this body move expeditiously to address this threat. I don't believe the timing is going to be a problem as we move through this year. I think it is a question of whether we sufficiently construct a mechanism to assure us that we have done the right thing; that just to dump money into any system that might be deficient today would be a mistake. I truly believe that with the support on both sides of the aisle and both bodies of leadership, this is an issue we can sufficiently resolve and we can do it in an expeditious way.

With that, I yield back my time.

The PRESIDING OFFICER. The minority leader.

Mr. REID. Mr. President, I thank you very much. I apologize to the Senator from North Carolina for interrupting. I did not mean to do that.

Mr. President, I approach this a little differently. There is always tomorrow. But on this issue, there is no tomorrow; there is only today. I have been worried about this issue for some time. Yesterday, my concern became paramount. The people of the State of Nevada and this country deserve our attention today, not tomorrow.

Dr. Julie Gerberding said:

> . . . many influenza experts, including those at CDC, consider the threat of a serious influenza pandemic to the United States to be high. Although the timing and impact of an influenza pandemic is unpredictable, the occurrence is inevitable and potentially devastating.

I am concerned about smallpox. I am concerned about anthrax. I am concerned about chemical terrorism, biological terrorism. But this pandemic is coming. We have been told this time and time again. I think it is incumbent upon this body to pass our amendment that is now before the Senate. Republicans and Democrats need to pass this amendment because the American people deserve it.

Four years after 9/11, the Government was supposed to be better prepared for the next national disaster. Yet as we witnessed all too clearly and painfully with Hurricane Katrina, our Government was not. We owe it to the American people to do better in the future. Today, we have that opportunity.

The human and economic toll of Hurricane Katrina has been dramatic, but the devastation caused by Katrina would pale in comparison with a potential global avian flu pandemic, which, the head of the Centers for Disease Control says is inevitable.

One health expert has concluded that nearly 2 million Americans would die in the first year alone from this. Now, a flu pandemic in the United States would cost our economy hundreds of billions of dollars due to death, lost productivity, and disruptions to commerce and society.

Perhaps the only thing more troubling than contemplating the possible consequences of avian flu is recognizing that neither this Nation nor the world is prepared to deal with it. We have no plan. Today we have no plan.

We know that one of our best opportunities to limit the scope and consequences of any outbreak is to rapidly detect the emergence of a new strain that is capable of sustained human-to-human transmission. Yet we are not devoting enough resources to effective surveillance abroad.

We all know that State and local health departments will be on the front lines of a pandemic and health care providers must develop surge capacity plans so they can respond to a pandemic.

This Congress is poised to approve a $130 million cut for State and local preparedness funding for the Centers for Disease Control. That is in the President's budget—a $130 million cut.

We also know once a flu strain has been identified, we need to develop a vaccine. That takes time, some say as long as 8 months. Our existing stock of vaccines, assuming they are effective against a future, as yet unidentified, strain may protect less than 1 percent of all Americans. And we have only one domestic flu vaccine manufacturer located in the United States.

It is estimated that if our capacity to produce a vaccine is not improved, it could take 15 months to vaccinate the first responders, medical personnel and other high risk groups.

We know it will take months to develop, produce, and distribute a vaccine once we have had it perfected. But we must rely on antiviral medicines as a stopgap against this pandemic. Other nations that certainly do not have the resources we have, including Great Britain, France, Norway, Portugal, Switzerland, Finland, and New Zealand have ordered enough of this Tamiflu, an antiviral pill, to cover up to 40 percent of their population. We have virtually nothing.

The consequences of a pandemic could be far reaching, impacting virtually every sector of our society and our economy. Yet we have not taken appropriate action to prepare the medical community, business community, or the American public so they can take necessary steps to prepare for and respond to an avian flu outbreak.

This great country of ours can do better. We have to. We cannot afford to wait to do better. That is why I am so happy to join my friends in sponsoring this amendment.

To put this amendment in perspective, this amendment calls for $3.9 billion in emergency funds for pandemic flu preparedness at the CDC. To put this amount in perspective, the cost of our amendment is less than what we spend in 1 month on the war in Iraq—far less than we spend in 1 month there. We are facing the real prospect of another war here at home called the flu. This amendment would go a long way toward committing the resources necessary to fighting and winning the war.

People say, well, where are we going to get the money? We have no choice. The American people deserve it. We can't stay back saying we will do it tomorrow. We need to do it today and I want everyone within the sound of my voice to know this is not a partisan issue. We need Republicans and Democrats to support this effort because this flu is going to strike us all.

This is not meant to be alarmist. It is meant to let everyone know the time is here to do something about this.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. BURR. Mr. President, we have several minutes remaining before we move on. I take this opportunity to assure the minority leader that I was in the same briefing. I think all Members were somewhat shocked at some of the things we heard. This is a Member who was not shocked because I have been charged as a subcommittee chairman since the beginning of the year with looking at all the aspects of this. I read daily the international press reports of how many new cases of avian flu, in what country, how many humans have contracted it from an animal source, how many humans potentially have contracted it from another human. The reality is this is something that from a committee standpoint we keep up with. We understand the sense of urgency. I plead with my colleagues that the answer is not to throw money at the threat. It is to have a comprehensive plan where research and the investment for that research pays off in countermeasures to protect the American people.

Senator HARKIN described very well that what is H5N1 avian flu in most of Southeast Asia today, by the time it travels, whether it is by humans or potentially by wild birds, the mutations that may take place might make irrelevant any vaccine that is produced today and antivirals that exist today, used to treat it might have potentially less than a satisfactory effect. Without a system that invests in research and development, how in the world do we expect new antiviral drugs and new vaccines to be produced?

To suggest that we put all our eggs into this limited approach—let's put this money up, and let's buy whatever is available on the marketplace—is comforting if, in fact, we believe this is a threat for tomorrow or next week or next month. The reality is this pandemic may occur next year or 3 years or 5 years down the road, and if we want to protect the American people, if we want to do our job, then you have to set up a comprehensive mechanism for that research, that development, and whatever product is needed to address the threat we may face.

Again, I commend those Members who have come to the floor and proposed the appropriations for this item. I disagree that this is the appropriate bill. I disagree that you should appropriate this much money or any money without a comprehensive plan as to how we produce countermeasures that continue past this one appropriations.

I pledge to the minority leader and to Senator HARKIN, but more importantly to every Member of this body, to work with them aggressively over the next 60 days to not only produce legislation out of the subcommittee, but to work with my chairman, Chairman ENZI, and to work with both leaders and all 100 Senators to make sure this legislation is passed in this body and by the House of Representatives, and signed into law by this President. I believe that it is that urgent. But, there is also a requirement for us to do it right, in fact, that is the single most important factor that we should consider.

I yield the floor.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to a period for the transaction of morning business until 4 p.m.

The Senator from Wyoming.

AMENDMENT NO. 1886 TO THE DEPARTMENT OF DEFENSE APPROPRIATIONS BILL

Mr. ENZI. Mr. President, I wish to continue the discussion we were having. I cannot tell you how disappointed I am that the first amendment on the Department of Defense appropriations bill is one dealing with avian flu. If that is the most important amendment the other side of the aisle has for the Department of Defense bill, we ought to go ahead and vote on the appropriations bill as a whole right now. That is not the appropriate place to put it.

To make it sound as though nobody is working on this issue and no money is available is a total disservice to the agencies that work on it and this body as a whole. We have been working on it. We have been working on it partly through the Katrina episode, making sure vaccines and other items that were needed for whatever would be available down there in a timely manner. Fortunately, we already had some laws in effect that allowed the Secretary of Health and Human Services to take some emergency action to put items in place and get things done. We will be reviewing that to see if they worked as well as they could.

We have had a bioshield fund in place for a while. That bioshield fund has money in it to do what needs to be done on any kind of terrorism or pandemic that comes up. What we have lacked is the plan. Actually, the plan falls under the jurisdiction of my committee, and we have been working on it. I divided the committee up—and Senator HARKIN is on the committee—to more closely follow the acronym of our office. We are the HELP Committee, and we are in charge of health and education and labor and pensions.

Of course, we have been devoting a tremendous amount of time recently to getting a pensions bill ready so it can be debated on the floor on a moment's notice. It is ready to go. There is a lot of agreement on both sides of the aisle, so we can get that out of here pretty

fast and protect hard-working Americans' pension funds. But we need to do the Department of Defense appropriations bill first.

A more appropriate place to debate this issue would be on almost anything that comes up later. As the Senator from Iowa knows, if there is a lot of debate on a bill that comes up, it probably is not going anywhere at this time of the year and with the crises we face. So perhaps that is why he decided he would put it on this bill.

We are working on it. Again I assure everybody we are working on it in the subcommittee that deals with public health and bioterrorism, under the jurisdiction of Senator BURR. He has been doing an outstanding job with that subcommittee. He hired some spectacular people who have a depth of understanding that I don't think we have seen for a long time in regard to those particular issues. He has held hearings on those issues and gathered valuable information. He has gone pretty far afield to make sure we are covering all of the things that could happen.

He has a bill that is virtually ready to go. It will include the capability and the plan for handling a pandemic, as well as any unexpected event. It greatly compresses the time for dealing with those issues from anything we have had before. It provides a coordination basis that is necessary for unexpected events.

I congratulate him for his efforts and for how widely he has researched it, and for the number of fellow Senators he has involved in it.

Yesterday, there was a briefing he helped set up so we would know more about, particularly, avian flu. That kind of thoroughness should be congratulated. We ought to be working with him to make sure we are getting the bill done.

I have to say, whether the threat is made by man or one that occurs naturally, we need to be prepared, and I agree with Senator HARKIN on that point.

Senator HARKIN, Senator BURR, and I serve on the Senate Committee on Health, Education, Labor, and Pensions. All of us also serve on the Subcommittee on Bioterrorism and Public Health Preparedness. As I said, Senator BURR is chairman of that subcommittee. He has held six hearings and roundtables on what we need to do to have a strong national biodefense.

As chairman of the full committee, I am looking forward to working with Senator BURR, Senator HARKIN, and the rest of the committee members to pass a bill this fall that will develop our capabilities to develop defenses against avian flu and a host of other biological threats we face—some known and some unknown—regardless of whether they are manmade or naturally occurring.

Senator BURR has been working on that comprehensive bill to build on Project BioShield. His bill will address everything from liability protection to biosurveillance, from the threat of terrorism to the threat of a normal disease.

As committee chairman, I fully intend to report that legislation to the floor this year to create a viable and innovative biodefense industry. We do need to create incentives and eliminate barriers to develop this industry because we cannot count on the Government alone to supply us with the countermeasures, the antidotes, and the detection tools we have to have to ensure our safety against biological threats.

Most importantly, we already have billions of dollars available in Project BioShield to do what Senator HARKIN wants to do. What we need to do is create an environment that will encourage business into this industry before we discourage them out of the industry. We need to get them back in. We need the innovativeness of small business and big business, and we need to make it more attractive so the drug and biotechnology companies will want to be engaged.

We have the money. What we need is a plan, and that plan is what we have been working on diligently. I do ask Senator HARKIN to work with me, to work with Senator BURR, to work with our majority leader, and to work with Senator KENNEDY, the ranking member on the HELP Committee, to make that happen. We have the capability to do it. We should be able to put together a package that should take relatively short debate on the floor, the House can match up to it, and we can do a conference and get it into effect. That would be better than having a full-blown debate on the Department of Defense appropriations bill, holding that bill up interminably when the money is needed, and creating difficulty in the conference committee, which will undoubtedly result in this measure being thrown out of the conference committee because it is not applicable to this bill and, therefore, that conference committee.

I appreciate the attention he has brought to the issue. It has brought attention to the issue. We need to do it the right way, and that is to include it in the development of a comprehensive bill that will deal with public health and bioterrorism.

Again, I congratulate Senator BURR and all those who have been working with him on developing that bill. I don't think anybody could have put it together in a shorter time period than he has. We are just 9 months into this term, and he is already delivering. That is a tremendous statement on our part of his capability. Again, I cannot express how thorough it has been. Let's do it right. Let's do it through a standalone bill on which both sides of the aisle can join. Let's get this done, solved, and eliminate it as a problem under the Department of Defense.

I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

AVIAN FLU

Mr. BAYH. Mr. President, let me begin by thanking our colleague, Senator KENNEDY from Massachusetts. He is busy and has a lot on his agenda. He has graciously agreed to let me speak before giving his remarks. I thank him for his courtesy.

I also commend Senator HARKIN, our colleague from Iowa, and Minority Leader HARRY REID for putting this pressing issue squarely on the national agenda. The issue of avian flu is one of the critically important issues of our time. Second only to the potential for the existence of weapons of mass destruction in the hands of suicidal terrorists, this issue has the potential to be catastrophic to the national security interests of this country.

I cannot imagine a more timely issue or one more appropriate to be brought up on this legislation than something that will protect the American people who are currently dreadfully exposed to the possibility of a global pandemic. We need a new sense of urgency in addressing this issue.

People have died because of avian influenza: 115 people have contracted it in Asia; 59 of those people have died. Leading experts say it is only a matter of time before this deadly disease becomes more efficient in moving from person to person. We should not await that dreadful day, but act proactively to protect the national security interests and the health interests of the people of the United States of America.

Previous influenza epidemics have been catastrophic, killing not hundreds of thousands, but millions of human beings. We cannot afford to wait for that kind of event to occur.

We are currently woefully unprepared. The estimates are that we have in our stockpiles only enough vaccine to cover about 1 percent of the American people. There are about 2.3 million doses of Tamiflu and 2 million doses of experimental pandemic flu vaccine in our stockpile. And another antiviral may have been compromised by the Chinese use on their poultry population, thereby imperiling its efficacy. We are way behind the curve in preparing for a potential outbreak or pandemic of this severity and potential magnitude. Other developed nations are way ahead of us in terms of compiling their stockpiles and preparing their public health agencies for a rapid response to this grave health threat.

The final point I wish to make is I think more than anything else, the lesson of Hurricane Katrina has taught us this: When it is a matter of life and death for the American people, we better prepare for the worst, even as we hope for the best because then one of two things will happen: If the worst occurs, you are prepared to protect the life, the security, and the safety of those who place their confidence in us. That is the very least they should expect from their Government. And if the worst did not happen, then we will be pleasantly surprised.

When it comes to dealing with avian influenza, let us not have a repeat of the mistakes of Hurricane Katrina. Let us be prepared so we may protect our citizens or so we may be pleasantly surprised. That is what Government is all about. That is why I am pleased to be a cosponsor of the Harkin amendment.

I thank our leader HARRY REID and, once again, Senator KENNEDY for a lifetime of leadership on these issues and for his courtesy to me today.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. COLEMAN). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I first pay tribute to my friend, colleague, and the chairman of our HELP Committee, Senator ENZI, for his comments and his statements. We have worked very closely together and will continue to do so on a variety of different health-related issues. We are working together on the challenges that we are facing from Hurricane Katrina, and we are also working on health and education, as well as issues of pensions and higher education.

We come at this with somewhat different viewpoints. First, I commend Secretary Leavitt for an excellent briefing and presentation yesterday. All of our colleagues have had the opportunity to read in our national newspapers the dangers associated with avian influenza, including the potential threat that it presents and why it is different from the seasonal flu that concerns families all over this country, particularly to the elderly.

We have to be reminded that 36,000 people every year die from the flu, even when we work to make sure they have access to the appropriate flu vaccine. But that is the number that we lose, and that certainly is a tragedy.

We heard an outstanding presentation by Secretary Leavitt, as well as an outstanding presentation by Dr. Julie Gerberding, who is the head of the CDC and who has been enormously perceptive in terms of looking at the avian flu that we are facing. We also heard from General Michael Hayden, Deputy Director of National Intelligence, and others. The one thing that came out of that meeting, that I think all of us were impressed by, is the sense of immediacy. I think that is what Senator HARKIN is reacting to and responding to, the real potential danger which would be devastating to potentially tens of millions of Americans.

Perhaps we are being overly sensitive to this issue by adding this amendment to the Defense appropriations bill because of the recent tragedy of Hurricanes Katrina and Rita. Obviously Katrina has been particularly devastating, and Rita was certainly enormously harmful as well.

There were several of us in that briefing who left saying if we are going to make a mistake, it will be on the side of taking too much action.

The Secretary outlined a very vigorous program that he himself is involved in, working with the other agencies of Government and working with other members of the Cabinet. Avian flu is going to involve just about every kind of public policy issue, including transportation, health, commerce, and so many others. He gave us the assurance that he is going to have his own plan that will be released in the next few weeks.

As Senator HARKIN and others have pointed out, this particular legislation outlines the areas where funding should be directed, and also gives great flexibility to the administration in terms of its expenditures. Senator HARKIN says that the funds will be available until spent. By passing this amendment today, we will not get caught at a time when either the Senate or the House is not in session. We now have an opportunity to make the necessary resources available, as well as direct the ways that it ought to be expended.

During the presentation, the Secretary pointed out that their goal was to buy enough antiviral treatment to cover 80 million people, which is about one-quarter of the Nation's population. That was going to be at the cost of $20 a course of treatment. It was brought up by our colleagues that if this pandemic strikes the United States, there is not going to be a family that is not going to want to make sure that they have protections for their children and for themselves, for their spouses, for their parents, and for their grandparents.

Every family is going to want to make sure they are able to afford and obtain that antiviral treatment. If one is affected by avian influenza and the antiviral treatment is taken immediately, the risk of death is diminished in a dramatic way. I think it is going to be very difficult to accept that this Nation will be satisfied with just one out of four Americans having access to this treatment. Even more so, when we already know the potential dangers of a pandemic by what we have seen in the places affected and impacted by avian flu.

This legislation will only cover 50 percent of the population. It does not cover three out of four Americans. And, it does not cover the whole population. It costs $1.6 billion just to cover a quarter. We doubled that roughly to $3.2 billion, which puts us into the range suggested by experts.

The point that was made very carefully by the Secretary is that we are going to have to deal with surge capacity, and that our hospitals do not have this capability at the present time. That is going to be very important.

Previously, we have provided help and assistance to local communities and to State agencies to help them meet their surge capacity needs. Beyond that, it is going to be enormously important that we invest funds, as this legislation does, in surveillance—not only detection in this country but detection in foreign countries. That is the best way that we are going to be able to deal with this avian flu, to get the earliest possible detection.

As a result of that briefing yesterday, I do not think any of us would feel that we have a full alert system working around the world. We had reports from various countries. A number of the countries, large countries as well as small, have effectively buried this health challenge and denied that they ever had it. We have to be very proactive if we are going to protect Americans. We have to be able to develop a system internationally where we can identify early warning signs of a pandemic. That kind of surveillance, is included in this legislation.

We have to make sure we have the capability in our States to be able to detect this when it first affects a community. We have to set up a system for our health clinics and for our hospitals to make sure that the first indications of this kind of health challenge are going to be addressed. We need the detection and then we need the containment. To contain flu, we need to build our public health infrastructure in the local community. We are very far away from that kind of capability.

A year ago, I think the Department submitted a public report about how many States actually had moved ahead in terms of developing their plans. About half of the states have yet to develop pandemic preparedness plans, and those with plans have yet to be evaluated for quality and feasibility.

When I entered the Chamber, I was listening to my friend, Senator ENZI, talk about the BioShield Program which we put in place in preparation for the kind of challenge that we might face from bioterrorists. It focused on different bioterrorism agents that might pose a direct health threat, and allows the Secretary to put in place a system to respond quickly and effectively to those kinds of challenges.

Our colleague, Senator BURR from North Carolina, has held an extraordinary number of hearings in these areas. I know he has been preparing legislation to deal with a number of these items that I am mentioning today. He has done a magnificent job in the development of those hearings. But that still does not mean that with the kind of challenge avian flu presents, which can be so devastating, that we should not be alert and ready to go.

We can point out that our whole system of vaccines is woefully lagging in the United States for a variety of different reasons. Today, we do not have the direct capability and capacity to develop the kind of avian flu countermeasures we need, including vaccines or producing enough antiviral medication. The best estimate is even if we were to give all the contracts out today, it would be well into the year 2007 before we were able to provide important coverage for all Americans. So we are talking years into the future before we can even provide Tamiflu, something that we know can make a difference.

It does seem to me that we do not have a day to waste. This is something that is very dangerous.

Finally, one could ask, Is it appropriate to be on a Defense appropriations bill? Well, if we were talking about something like nuclear weapons, I would say, yes, because we are concerned about the dangers of nuclear proliferation. I, quite frankly, believe avian flu presents a much greater threat, because it is imminent, highly lethal, and we have few countermeasures.

I do not see a great difference myself—certainly it will not be much of a difference to the families who are affected, whether it is terrorism or the fact that this kind of influenza has spread to this country and their family is infected with a deadly virus. That is why I believe that action is necessary.

Very quickly, we have seen reductions in two very important agencies. One is HRSA, which provides grants to help hospitals in the area of preparedness so that they can develop a response plan, get clearance with the State and HHS. Hospitals have begun working on plans, but they are woefully far behind, and this program was cut again this year.

Then we have the Centers for Disease Control that will be certainly a lead agency—I would hope that it would be a lead agency—and we know that their public health expenditures have been reduced. I think this is tragic myself. It is a jewel of an organization in terms of American public health, and it has done extraordinarily well. It is extremely well led at the present time, and it does not seem appropriate to me that we ought to be reducing the CDC budget, when the agency has such great responsibility in this area at this time.

Yesterday, when I asked Secretary Leavitt whether we could actually use the BioShield money—I think we have close to $6 billion in that—he said that it was set up and structured so that the funds are not applicable to this particular kind of challenge.

I think the amounts we are talking about are appropriate, given the essential nature of the potential disaster. The new flu strain poses a deadly threat. One of the important points made by Secretary Leavitt yesterday is that even this very deadly strain they are most concerned about can mutate further. It is always somewhat difficult to develop the vaccines and antivirals because these strains can alter and change, making the vaccines no longer effective. But having said that, they believe the treatments they have developed can have an important impact on saving the lives of those infected with avian flu. In the areas already affected with avian flu, we see a death rate of 44 percent in Vietnam, 71 percent in Thailand, almost 100 percent in Cambodia—and an average of 50 percent for all of Asia.

The great challenge, as we heard yesterday, occurs when it moves from the birds into human beings. That is a big leap. I will come back and make a longer talk about how that comes about and how rare that process is, but that has happened.

Then, the next leap is whether it is easily spread from person to person. For example, if one member of the family—if a child has it, is it easily communicable to the child's siblings? There is only one recorded instance, as we were told yesterday, where that has taken place. But it has taken place. That is a very important warning sign because it suggests that this influenza has the potential to become a pandemic and be absolutely devastating.

We were reminded yesterday, during the briefing, there are usually three pandemics every 100 years. They talked about what happened in the immediate postwar period of 1918, when soldiers had been at the front and they contracted dangerous influenza. In the US, over 500,000 people died from that pandemic flu, and another 50 million worldwide died.

We do not want to be unduly alarmist, but we have to be serious about it. This meeting we had was in S–407. It was going to be top secret, evidently. I said to the Secretary, now that we have heard all this news, it seems to me the public ought to know about it, they ought to understand it, and it ought to be explained by the top health officials in the country so we get accurate information. We have a number of those—Secretary Leavitt, Dr. Tony Fauci, Dr. Julie Gerberding—who are enormously competent, thoughtful scientists, researchers, who have a lifetime of commitment trying to understand these dangers. The more Americans listen to them and read the information on this and the authentic science, the better off they are going to be.

But I believe this Harkin amendment is saying we have been put on notice. If there is an avian flu outbreak, they will say, Didn't you go to the briefing upstairs in 407 where they laid this out to you? You are on the HELP committee. You know the dangers. You worked with Senator FRIST when we passed BioShield. Senator BURR, when he was in the House, was a principal sponsor—even before 9/11. The elements of preparedness, detection, and containment that are in this amendment were included in BioShield as well. These are thoughtful ideas. There is strong support for them in the HELP Committee. Today, we have an opportunity to take action on the floor. The administration is going to be responsible for that when this amendment is passed.

I join with my colleague and friend, Senator ENZI, and with Senator BURR, our other colleague who has provided great leadership in the committee, to get legislation on preparedness out as early as possible.

My chairman, Senator ENZI, likes to do it the old-fashioned way. He likes to listen to witnesses make the presentations, mark up the bill and get it to the floor, and he does it with extraordinary success. I would say, on this particular occasion, we ought to get the resources out there now.

Senator HARKIN has outlined the general areas which I think are justifiable, where the resources should be spent. I would also like to see the Secretary bring together all the major drug companies, which I think he intends to do, and go over this and get a plan from them about how we can maximize the safety and security for all Americans. This is what this amendment is all about.

I thank my colleague from Wyoming for his comments and statements about avian flu. I look forward to working with him on this issue. Our only real difference is whether we move ahead now, trying to at least provide those essential resources for the Secretary, the President, and the administration, to act now and prepare us for the threat of avian flu or wait until it's too late.

We can work with our colleagues within our committee to try to develop additional legislation to further improve our preparedness and develop effective treatments for avian flu. That is certainly a responsibility that we have. I welcome the opportunity to do that with my friend from Wyoming and also the Senator from North Carolina.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. 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. DURBIN. 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. DURBIN. Mr. President, reflect for a moment on what America went through with Hurricane Katrina, reflect on what it has meant to our country and what it has meant to our Government. That was the greatest natural disaster of modern time. Americans were shaken to the core watching television night after night to see victims of Hurricane Katrina and what they were living through. Many of those scenes we witnessed did not look like America. It just doesn't seem like our great Nation where people would be in such a helpless and almost hopeless state—to find people struggling just to survive the floodwaters and the hurricane damage, to see Americans begging for water and food, to see what appeared to be refugees—in fact, evacuees—trying to bring their children across interstate bridges to dry land, to see people thrown in many different directions, families divided and still not united. To see all of that occur day in and day out 24–7 was a startling scene. It was an indication to all of us that we needed to take a step back and

take a look at America from a different angle.

Perhaps too many of us had been lulled into the belief that this sort of thing could never happen, that leaders in America would never let us reach this terrible point, whether it is a natural disaster or a terrorist disaster, that someone somewhere in Washington or in a State capital or in a city hall had not made preparations and plans to deal with it. It is that concern that has led so many people to call for an honest appraisal of what happened with Hurricane Katrina and Hurricane Rita and what we need to do in America to be better and stronger and better prepared.

I don't think the people of this country expect the Senate or their Government to look at the world through the rearview mirror. We can't spend our time looking back and reliving every moment and pointing a finger of blame here and there or some place for some satisfaction, personal or political. But it is critically important that we review that scenario, that we don't repeat the same mistake, so that the next time, we are better prepared. That is what we need.

That is why we need an independent, nonpartisan commission—people without allegiance to the President or to the Democratic Party or to the Republican Party but people who are truly Americans first who will come together in a commission and ask those questions so that we can be better prepared for our future. Unfortunately, there has been resistance to this idea, but that is nothing new.

After 9/11, many of us called for the creation of a commission to find out why our intelligence sources failed so miserably and what we could have done to avoid that terrible disaster of 9/11. At that time, the White House opposed the creation of the 9/11 Commission, and many members of the President's party also said it is premature, we don't need it. But good sense prevailed. More than that, the 9/11 survivors' families prevailed—those widows and widowers, those children and spouses who came forward and demanded the creation of this independent Commission. They were the political force. They were an irresistible force. They created this Commission with two extremely talented individuals: Governor Kean of New Jersey, a Republican, and Congressman Lee Hamilton of Indiana, a Democrat. They came together with others of like mind and did a great national service.

The 9/11 Commission not only analyzed what went wrong, which you almost have to start with, but then they said: Here is how we could do better. They produced a proposal for reforming the intelligence agencies of America—there are many of them—so that they would be better coordinated, share information, and be there to protect America. The first line of defense against any terrorism is not our military. The first line of defense is intelligence. We need to see the danger coming before it strikes and stop it. That is what good intelligence can bring you.

With their suggestions, on a bipartisan basis with the support the 9/11 families, we moved forward. Credit should go where it is due. In the Senate, SUSAN COLLINS, Republican of Maine, and Senator JOE LIEBERMAN, Democrat of Connecticut, took the proposals of the 9/11 Commission, working with the Members of the House of Representatives, and crafted a piece of legislation which I was honored to be part of, and we worked literally for months to get that done. We gave up a valuable commodity around here: we gave up our time with our families. We came back during the August recess and held hearings. We pushed the bill, and it was signed by the President.

Good things happened. Why? Because we had the right leaders in place. These Commission leaders were in place. They pointed to weaknesses, and they told us how we could overcome. They called for reform. They stayed with the agenda until it was accomplished. It was a model for all of us and one we should look to when it comes to Hurricane Katrina and Hurricane Rita. That is why I believe an independent, nonpartisan commission is so necessary.

The House of Representatives had a hearing earlier this week. They brought in Michael Brown. He pointed a finger of blame in every direction, including his own administration. When it was all said and done, people said: Well, at least he was brought before this committee and the members that did appear and was held accountable. That is a good thing. It is an important thing. But it isn't going to bring us to the point we ought to be in this country. We want to find out what went wrong. Why didn't we think ahead if we had been warned so many times about the dangers in New Orleans? Why didn't we plan ahead when it came to positioning forces, positioning food and supplies? Why didn't we have a communications network that could survive a natural disaster? Why didn't we have better cooperation at all levels of government? Where do we need to change the law so that at some given moment, it is clear who is in charge? What could we have done to save those lives we lost in those disasters? What should we do now to reunite these families and put their lives back in order? These are all valid points.

The reason I have reflected on these circumstances, 9/11 and the hurricanes, is because the amendment that is pending right now on this Department of Defense appropriations bill gives this Senate an opportunity to step forward right now at an early moment to avert the next tragedy. Let me tell you what I mean. We need a wake-up call in America. Most public health officials here and around the world agree that an outbreak of a new pandemic is virtually inevitable. I use the words ''virtually inevitable'' with some care. Those are the words of Dr. Gerberding, who is the head of the Centers for Disease Control.

You have to be a student of history to remember the great flu pandemic of 1918 that claimed so many innocent lives in America. What Dr. Gerberding and other health officials are telling us is that unless we aggressively monitor and immediately contain this avian flu, it is likely to be a global pandemic.

The difference, of course, is the world of 2005 is so much different from the world of 1918. In the world of 2005, an infected person is 12 hours away from your doorstep. That is about as long as it takes to fly from one part of the world to another.

We have to prepare and we have to start now, no excuses. That is why the Harkin amendment, which I am happy to cosponsor, is so important. People say: Why would you bring up an amendment about a national pandemic of avian flu on a Department of Defense appropriations? Don't you have health appropriations or other things? It is true. And Senator HARKIN and I happen to be on the subcommittee that would more naturally be the place to bring up this amendment. However, he is doing it because we have relatively few opportunities in this Senate to act. We believe, in supporting this amendment, we need to act, and to act now.

I am told what makes the avian flu so dangerous is that humans have no natural immunity to this strain of flu. We remember the flu shots and all the warnings we have received over the years. For the most part, those flu shots are increasing our already natural resistance to flu. When it comes to the new strain of avian flu, we have no resistance. We have no immunity. It is not a question of children and sick people and the elderly being vulnerable, we are all vulnerable. That is what happened in 1918. The healthiest looking people on the street could be dead in 24 hours. That was the nature of that flu and could be the nature of this flu challenge.

The Centers for Disease Control has suggested that an avian flu outbreak in the United States could claim the lives of 200,000 people—a conservative estimate. Compare that to 36,000 lives lost each flu season to typical, normal flu. It is not just that the CDC that is anticipating a flu pandemic. Yesterday, Senator FRIST asked the Secretary of Health and Human Services, Mr. Leavitt, to ensure that there are U.S. antiviral drugs in the national stockpile to provide treatment for 50 percent of the American population in the event of an outbreak. I fully support Senator FRIST's recommendation. As most everyone knows, he is a medical doctor, in addition to being the majority leader of the Senate.

I am pleased to join in offering this amendment which provides the Department of Health and Human Services with the money it needs to purchase those drugs. That recommendation alone will require about $3 billion.

What is the antiviral drug? The one most commonly referred to is called Tamiflu. If a person has flu-like symptoms and calls the doctor as soon as they feel them coming on, that doctor might prescribe Tamiflu, which if taken quickly, could lessen the severity of the influenza. The notion is, we should be prepared as a nation with this antiviral Tamiflu in the stockpile, or something like it, so that if we do see this flu coming toward America, we are prepared to provide some treatment for people as they start to exhibit symptoms.

This amendment that Senator HARKIN has offered, with my support and others, provides funding to the Department of Health and Human Services so it can enter into a contract to buy those drugs now. Until the Department of Health and Human Services has that money on hand, all of our conversations are just theoretical.

Remember last year when we talked about running out of flu vaccine, and the flu had already hit? It was a little late. That is what we are trying to avoid. Step in early for the virtually inevitable pandemic and have a stockpile of medicine available for America. Be prepared. That is what this amendment has as its watchword.

The Department of Health and Human Services cannot add antiviral drugs to the stockpile until it has the money to purchase them. This amendment provides the money to the Department of Health and Human Services so they can purchase drugs to treat up to 50 percent of the U.S. population.

I asked yesterday in one of the briefings, why did you pick a number like 40 or 50 percent? The public health experts, such as Dr. Fauci and others, say that is the percentage of the population we think may be exposed. Let's not revisit the scenario of last year's flu season when there was not enough medicine and we had to make decisions about rationing the medicine. There came a time when we said there is not enough flu vaccine. I said, well, I feel pretty healthy, I will get to the end of the line. And when it was all over we ended up with more than we needed. It was not good management of flu vaccine in our country.

Baruch Fischoff of Carnegie Mellon University, an expert on the public perception of risk, says telling people they cannot get flu treatment ''isn't the American way.'' ''That is rationed health care. We just do not accept that.''

We have to prepare for developing something else which is going to take a lot of energy, a lot of resource and ingenuity. We have to prepare and develop a vaccine to deal with this flu that prevents the infection from ever setting in. Right now, that vaccine does not exist. Even if it did, we do not have the manufacturing capacity in the United States to produce vaccines at the rate we need them.

Senator HARKIN's amendment, now pending, doubles our commitment to research and development, the manufacture of, even the purchase of an effective avian flu vaccine.

Remember last year when one of two flu vaccine manufacturers for a typical flu season had to close its European facility? The United States could not turn to any domestic supplier to make up for the loss of those doses of vaccine because we did not have that capacity.

We talk a lot about the U.S. dependence on foreign suppliers for oil. We shouldn't have to depend on other countries for the medicines we need during a global health crisis.

Another lesson from last year's flu vaccine shortage, we have to have a plan. In the face of the vaccine shortage, prices for a dose of flu vaccine in Kansas at one point went as high as $600. In Colorado, 600 doses of flu vaccine were stolen from a doctor's office.

Despite these images of chaos, State and local health officials worked long and hard to maintain calm and also figure out how many doses there were, where they were, and how to get them to the people who needed them the most.

If we intend to rely on good work, long hours, and a public health workforce that does not get sick, we may be in trouble. This amendment restores cuts to State and local public health agencies so they will have the money to be prepared. It includes enough money for communities to figure out where we will take care of people who are sick when the hospitals and clinics reach capacity, which could happen.

Again, the people who turned New Orleans airport into a hospital showed bravery and grace under pressure. But we can do better than airport lounges and convention centers as makeshift clinics in America—only if we think ahead; only if we are prepared. Let's give our State and local agencies the resources and timeline to prepare for a pandemic flu outbreak.

This time, we are virtually certain it is going to hit. This time, no excuses. We should be prepared. We need to begin now to prepare, and do it aggressively. The best possible outcome would be an early detection of the outbreak, quick containment and treatment, and then development of a vaccine to prevent its spread. This amendment doubles the investment of the Centers for Disease Control in global disease detection in an effort to find, stop, and prevent the spread of the avian flu as soon as it mutates into a strain that can move efficiently, in the words of the medical community, ''from person to person.''

I heard one of the public health leaders the other day say it might not be this winter, it might be next winter, but it is going to happen. If we know that, and we do not act to prepare for what President Bush says could become the first pandemic of the 21st century, we are failing in leadership. We will have failed as much as any official who did not respond to the catastrophe of Hurricane Katrina.

The funding we propose to add to this bill to prepare for a virtually inevitable, probably global public health crisis is less than we spend on the war in Iraq in 1 month. That is what it will take to get America ready so this avian flu does not claim so many lives.

This investment will, in fact, save lives. Hundreds of thousands of American lives could be spared, by the most conservative estimates. It could be as many as 1.7 million American lives that are at risk in this pandemic, according to an adviser to the Department of Homeland Security. Understand, this amendment does not create any new programs or start any new initiatives. It simply accelerates the work of the CDC in preparing for the outbreak of this deadly flu. The preparation will take time. There is not much we can do about that. Avian flu could begin to spread at any time.

Currently, they have reported 115 cases of avian flu around the world. Where humans were affected by it, over half of them have died. There isn't anything we can do about the current situation, but there is something we can do about the threat to America. What we can do is step up to this challenge, purchase the antiviral drugs we need now, invest in domestic capabilities for vaccine protection for America, and prepare for emergency care during a flu pandemic.

We talk a lot about national security in the Department of Defense bill, but a strong America begins at home. We found that out. We found it out on the gulf coast. We were not prepared. We did not do our job. No one stood up soon enough and early enough and said it is time to hold people accountable. It is time to think ahead, think beyond the moment, think to what we need.

What if I am wrong? What if this flu pandemic does not occur? What if this money is invested in things that, frankly, do not become necessary? That could happen. And I pray that it does. If we could spare Americans and people around the world the suffering that could be associated with that pandemic, I wish that happily. I would be glad to stand and say, well, perhaps we did too much too soon. But I would much rather stand here and apologize for doing too much too soon than to stand here and make excuses for not doing enough when we had to.

The Harkin amendment is an important amendment for the strength of America, for the health of America, and for the protection of America. I look forward to supporting it. It would be wonderful if we had a strong bipartisan rollcall to say that we will start with this national challenge, coming together in a bipartisan fashion, both the administration and Congress dedicated to making certain that we learned a lesson from Hurricane Katrina.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

ETHANOL

Mr. NELSON of Florida. Mr. President, I am here for my daily speech on oil independence for this country. Before the assistant minority leader leaves the floor, as he has been such a leader in this area, and before this Senator launches into this series of conversations for the Senate about the need to have oil independence and the ways that we can be going about it, bringing to the Senate each day a new kind of technology we should be looking at—today I am going to talk about the expansion of ethanol—I invite the Senior Senator from Illinois, since he has been such a leader in this area, for any comments that the Senator would like to make in a colloquy before I continue with the series of speeches on oil independence.

Mr. DURBIN. Mr. President, I thank the Senator from Florida. He has identified an issue which every American family understands every time they go to the gasoline station.

The cost of filling up the tank nowadays is stunning. Even the automobile manufacturers are starting to advertise cars with good gas mileage. We haven't seen that in a long time, have we? It reminds all Americans how dependent we are on foreign fuel and foreign sources of energy.

The Senator from Florida, a leader on this issue, remembers we brought an amendment to the floor on the Energy bill saying we believe America should set as a national goal reducing our dependence on foreign oil by 40 percent over the next 20 years. Sadly, it was defeated on a partisan rollcall.

I cannot believe this is a partisan issue. Our dependence on foreign energy puts us at the mercy of the Saudis and others who really do not lose a lot of sleep if our economy is not doing well and if our families suffer.

I am glad the Senator stepped forward. He identifies ethanol. It is near and dear to my heart because my State produces more than any other State. And it is homegrown. We do not need to have a Saudi prince smiling at us to find a gallon of ethanol. All we need is for God to bless us with a little sunshine on that corn crop, and we know just what to do with it.

I am glad the Senator is raising this issue. It goes back to a point I made in my earlier statement about public health: a stronger America begins at home. What the Senator from Florida is reminding us is whether it is public health or energy, it is time to focus the ingenuity, creativity, and innovation of this country into making America stronger at home. I am glad the Senator is leading us in that discussion today.

Mr. NELSON of Florida. I would like the Senator from Illinois to respond to the fact that Hurricane Katrina and now Hurricane Rita has given us another lesson of just how thin and delicate this oil supply and refinery pipeline is, so that the least little disruption in it—a hurricane or the shutting down of a refinery, in this case, five or six refineries that are shut down, or, Lord forbid, a terrorist act, the sinking by a terrorist of a supertanker in the Strait of Hormuz in the Persian Gulf—any one of these things could absolutely disrupt the world that is so thirsty for oil consumption, and could send our gasoline prices not shooting through $3, but could be sending it through $4 and $5 and $6 a gallon.

Would the Senator comment on that?

Mr. DURBIN. I would like to comment, through the Chair, and say to the Senator from Florida that because of the hurricanes we have lost 22 percent of our refining capacity in America. So if you wonder why the price of gasoline is high, higher than it has been historically, that is one of the reasons. I might add, parenthetically, when it comes to the price of gasoline and oil companies, almost any excuse will do to raise the price of gasoline. But in this case, we know that the reduction of 22 percent of our refining capacity means there is less gasoline on hand and, therefore, prices are being pushed upwards.

Today at a press conference, I announced a bill that I am going to introduce which will create a national gasoline reserve and jet fuel reserve. Presently, we have 700 million barrels of crude oil which are being held as our National Petroleum Reserve. The President started releasing that. But releasing crude oil does not meet the need for refining capacity. So the crude oil coming into this narrow funnel of reduced refining capacity does not solve the need.

What I believe we should do is give to any President a tool to respond to shortages in gasoline in various regions that cause price spikes; the same thing with jet fuel. Three new airlines are in bankruptcy mainly because of the increase in the price of jet fuel. So we think we should be setting aside these resources, again, keeping America strong at home, so we are not watching our economy flounder and our families suffer because of these skyrocketing gasoline prices.

Mr. NELSON of Florida. Mr. President, I would like the Senator from Illinois to comment on the fact that in America most of the oil consumption is in the transportation sector. In the transportation sector, most of the oil is consumed in our personal vehicles. So we could start reducing the consumption of oil in our own vehicles a little, have increased miles per gallon, substitute ethanol for gasoline, have hybrid engines, hybrid engines you plug in to give a full charge at night while it is in the garage. We could have ethanol not made just from corn, which is homegrown, but made from sugarcane, sugar beats, cellulose. It could be grass. We happen to have 31 million acres of prairie grass in this country. Cut the grass. Make cheaper ethanol. Therefore, for every gallon of ethanol that goes into that gas tank—and you can use existing engines in our personal vehicles—you are making a mixture of gasoline and ethanol, and that means we are burning that much less gasoline, which means we are burning that much less oil that we have to import from foreign shores.

I would like the Senator from Illinois, who has been a leader in this area, to comment.

Mr. DURBIN. Responding to the Senator from Florida, through the Chair, the nation of Brazil decided, years ago, they were tired of their vulnerability to foreign energy sources and they said: We are going to make a national mission of energy independence. By moving toward homegrown fuels and conservation, they have reduced their dependence on foreign oil to less than 15 percent, while the United States depends on foreign oil, consuming over 60 percent at the current time. And most of it, as the Senator said, goes into the cars and trucks we drive.

The Senator raises an issue that is near and dear to my heart about the fuel efficiency of cars and trucks. A little walk down memory lane: In 1975, when the price of a barrel of oil went up from $3 to $5, to $12, America went into a panic and Congress said: We have to do something about it. The average fuel efficiency of cars and trucks in America was about 18 miles a gallon. So we put in a Federal Government mandate that the auto manufacturing companies had to have an average fleet fuel efficiency of 28 miles a gallon, which they had to reach over the next 10 years. They had to move from 18 miles a gallon to 28 miles a gallon over the next 10 years. They screamed bloody murder. They said: It is technologically impossible. The cars and trucks we build will not be safe. And you are forcing America to buy foreign vehicles.

We ignored them. We said: Do it. We believe you can. If we have to order you to do it, we are going to order you. We ordered them to do it, and in a matter of 10 years they reached the goal of an average fleet fuel efficiency of 28 miles per gallon. The year was 1985.

It has been 20 years since then, and we have done nothing except watch the truck exemption—which we converted into SUVs—create this new breed of heavy, fuel-inefficient vehicle such as this god-awful Hummer. If you want to drive a Hummer, for goodness sakes, join the Army.

In this situation, these fuel-inefficient vehicles have dominated our market, and our average fuel efficiency in America has gone from 28 miles a gallon in 1985 to less than 22 miles a gallon today. We are importing more and more oil to drive the miles we need.

So I offered an amendment on the floor—and the Senator from Florida, I am sure, remembers it—and said: Is it too much to ask the auto manufacturers to increase the fuel efficiency of cars and trucks in America by 1 mile a gallon each year for the next 10 years so we can get to 32 miles a gallon?

The Senator knows what happened. We had resistance not only from the

automobile companies but their workers. Do you know what they said? They said: It is technologically impossible. The cars and trucks you want us to build will not be safe. And you are going to force foreign manufacturers on American consumers. They will not have any place to go. It is the same story we heard 30 years ago. The amendment was defeated.

But today I think if we called it up for reconsideration there would be a few more votes. People are understanding you cannot control your fate and you cannot control your pocketbook if you are spending $100 every time you drive into the service station to fill the tank of that SUV. So I think folks are more sensitive to it.

I have written to the big three manufacturers, to their CEOs, and said: Listen, it is time to sit down and get serious. The American consumers want a more fuel-efficient vehicle. You know you can do it. How can we work together to achieve it?

Mr. NELSON of Florida. Mr. President, just exactly what the Senator from Illinois says, there is a waiting list a mile long to get the hybrid vehicles that, in the case of Toyota, get 50 miles to a gallon in city driving. Yet what do we have to do to get the rest of the automobile manufacturers?

Maybe it is going to take Hurricane Katrina, with a scare of a shortage, with the shutting down of refineries, that is going to finally get our collective heads out of the sand and face the fact we are so dependent on oil—and foreign oil—and that this is not a good position for this country to be in.

Does the Senator from Illinois remember when we offered a simple little amendment, and it was only to increase miles per gallon on SUVs, phased in over a multiyear period, and we could not get anymore than about 39 votes out of 100 Senators in this Chamber? Yet we are facing the crisis we are today.

Mr. DURBIN. I would say, in response to the Senator from Florida, through the Chair, I think America understands what this means. Our vulnerability, our dependence on foreign oil, means we are drawn into wars and foreign policy decisions which we may not want to make. It also means our economy is burdened by inefficiency and vehicles that are really burning too much gasoline. It also means that for every extra gallon we burn, there is more pollution in the air. So it is from three different perspectives.

Our lack of fuel efficiency in our vehicles is burdening America with responsibilities and decisions which American consumers would agree and American families would agree we should not have to make as a nation.

Now, I know I voted for the Energy bill—I do not know how the Senator from Florida did—because it contained provisions about ethanol and biodiesel. But if you look beyond those provisions, you will find in that bill many subsidies for oil companies. What an irony that we provide subsidies to oil companies at a time when they are experiencing the highest profits, windfall profits, they have ever seen—billions of dollars. And do you know why? Because the price of gasoline is much higher than is warranted by the price of crude oil. So that Energy bill we had the President sign last August really does not step up to the plate and address the reality of the energy challenge of America.

I believe Americans want us to move toward energy independence, to move toward using fuels that are efficient and do not pollute. And I believe they want us, as a nation, to create incentives for renewable, sustainable energy sources, for innovation in energy technology that will create new companies, new jobs, new opportunities in this country.

We cannot be looking backward. We have to look forward in terms of what our children need for energy in the 21st century.

Mr. NELSON of Florida. Mr. President, this Senator would say that it is only going to get worse if we do not do something now. This Senator thinks we are approaching a crisis because China is now on the scene, and China is becoming a huge consumer of oil. They are second only to the United States in the consumption of oil. They have had 40-percent growth in their demand on the world's oil supply. China's purchases of new passenger cars has risen by 75 percent.

In a tight world oil market, with new demands put on the supply by emerging nations such as China, it is only going to get worse. And here we are, the United States of America, importing 58 to 60 percent of our daily consumption of oil from foreign shores. It is an accident waiting to happen.

What does it take to collectively shake the American people to the point that the body politic will demand of their elected representatives that we start making changes—synthetic fuels, alternative fuels, higher miles per gallon, alternatives such as ethanol, hybrid vehicles, encouraging them, satisfying the demand? The waiting list is a long list. What is it going to take?

Will the Senator give me any kind of reflection?

Mr. DURBIN. I would like to respond to the Senator from Florida through the Chair and say that Hurricane Katrina, those catastrophic winds that blew down the coast of Mississippi and Alabama caused a great deal of suffering. People still suffer today from the consequences.

Maybe, in that terrible natural disaster and tragedy, something good will come of it. If those winds blow down the doors of indifference when it comes to some basic issues in America, then we can build, as a country, from that sad experience—whether it is caring for the most vulnerable in America, who were the ones who suffered; whether it is standing together as a nation, saying we are part of an American family, and if that tragedy hits your State of Florida or my State of Illinois, we will stand together to make sure your State gets back up on its feet; or whether it is looking at our dependence on foreign energy and saying: We have to change. This struck a part of America from which energy comes and is refined. We have to change in terms of our policy.

So I would say to the Senator from Florida, maybe that great disaster, that terrible suffering that came from it, will also bring with it a new awakening in this country about a new direction we need, a direction that moves our Nation together, unified as a community, to solve the serious challenge we face today.

It was not too long ago, I say to the Senator from Florida, we would sit on the floor and argue about the ''ownership society.'' Remember that? Privatizing Social Security: We don't need Social Security. Just let me have my own private account. Well, you heard that a lot. And the model of the ownership society group was: Just remember, we are all in this alone.

Well, we learned better. We learned with Hurricanes Katrina and Rita and other challenges, the only chance we have is when we are all in this together. And together as a nation we have done amazing things.

I think the life of the Senator from Florida tells that story. Most people don't know—but I sure do—you served in the House of Representatives. You were an elected statewide official in Florida and managed to squeeze into that public service career a trip in space as an astronaut. And I know you then came to the Senate with dedication even greater to this country.

Together, Florida is strong, Illinois is strong. We are strong as a nation.

Mr. NELSON of Florida. As we close this out—under the previous order, at 4 o'clock we will be in other business—I will continue my drumbeat on a daily basis about the need for energy independence. I know what our people in Florida believe. They feel very strongly about it. Before I engaged in the colloquy with the Senator from Illinois, I had intended to talk about some specifics of the use of ethanol and the manufacture of ethanol and how that could help us ween ourselves from dependence on foreign oil. I shall pick that up on another day, but I will continue this daily, trying to sound the alarm for this country that if we don't do something, we will rue the day that we did not.

I am told that we might have a couple of more minutes here. I will go ahead and close out some of my comments. As the Senator from Illinois and I discussed in our colloquy, it is true that transportation is where we are consuming most of our oil. If you want to do something about lessening your dependence on foreign oil, go to the place where we consume most of it. That is in our personal vehicles. One thing that we have to do is pursue alternative fuels to petroleum. Gasoline

and diesel, petroleum products, accounted for over 98 percent of transportation motor fuels sold in the year 2004. Only 2 percent are from alternatives to petroleum. We need to increase that 2 percent, and it can come from many different sources of alternatives to petroleum, such as ethanol.

As the Senator from Illinois and I discussed, corn is clearly a basis for ethanol. But with the advance of technology, there are many other sources as well. Cellulose and glucose are two. Glucose, sugar, we raise a lot of sugarcane in Florida. They do in Louisiana. We raise a lot of sugar beets throughout the Midwest and the West. That is a source of ethanol. It was one of the things that I pushed for, at the time of the discussion of CAFTA, to get the administration, through the Department of Agriculture, to start the study on making ethanol from sugarcane. I will pick up in the future with a discussion of ethanol made from sources other than corn, as I bring to the attention of the Senate how much this is getting to be an emergency situation that we are depending on oil. And of that oil, almost 60 percent of it comes from foreign shores. That is not good for this country. We have to change that.

I yield the floor.

MEDICARE COST-SHARING AND WELFARE EXTENSION ACT OF 2005

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Finance be discharged from further consideration of S. 1778 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER (Mr. CHAFEE). Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1778) to extend Medicare cost-sharing for qualifying individuals through September 2006, to extend the Temporary Assistance for Needy Families Program, transitional medical assistance under the Medicaid Program, and related programs through March 31, 2006, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. STEVENS. I ask unanimous consent that the Grassley amendment at the desk be agreed to; the bill, as amended, be read a third time and passed; the motion to reconsider be laid on the table, and any statements relating to the measure be printed in the RECORD.

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

The amendment (No. 1894) was agreed to, as follows:

(Purpose: To eliminate coverage under the Medicare and Medicaid programs for drugs when used for treatment of erectile dysfunction)

At the end, add the following:

SEC. 4. RESTRICTION ON COVERED DRUGS UNDER THE MEDICAID AND MEDICARE PROGRAMS.

(a) EXCLUSION UNDER MEDICARE BEGINNING IN 2007.—Section 1860D–2(e)(2)(A) of the Social Security Act (42 U.S.C. 1395w–102(e)(2)(A)) is amended by inserting ''and, only with respect to 2006, other than subparagraph (K) (relating to agents when used to treat sexual or erectile dysfunction, unless such agents are used to treat a condition, other than sexual or erectile dysfunction, for which the agent has been approved by the Food and Drug Administration)'' after ''agents)''.

(b) RESTRICTION UNDER MEDICAID.—

(1) IN GENERAL.—Section 1927(d)(2) of the Social Security Act (42 U.S.C. 1396r–8(d)(2)) is amended by adding at the end the following new subparagraph:

''(K) Agents when used to treat sexual or erectile dysfunction, except that such exclusion or other restriction shall not apply in the case of such agents when used to treat a condition, other than sexual or erectile dysfunction, for which the agent has been approved by the Food and Drug Administration.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to drugs dispensed on or after the date that is 60 days after the date of enactment of this Act.

(c) CLARIFICATION OF NO EFFECT ON DETERMINATION OF BASE EXPENDITURES.—Section 1935(c)(3)(B)(ii)(II) of the Social Security Act (42 U.S.C. 1396v(c)(3)(B)(ii)(II)) is amended by inserting '', including drugs described in subparagraph (K) of section 1927(d)(2)'' after ''1860D–2(e)''.

The bill (S. 1778), as amended, was read the third time and passed, as follows:

S. 1778

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 ''Medicare Cost-Sharing and Welfare Extension Act of 2005''.

SEC. 2. EXTENSION OF QI PROGRAM THROUGH SEPTEMBER 2006.

(a) IN GENERAL.—Section 1902(a)(10)(E)(iv) of the Social Security Act (42 U.S.C. 1396a(a)(10)(E)(iv)) is amended by striking ''September 2005'' and inserting ''September 2006''.

(b) TOTAL AMOUNT AVAILABLE FOR ALLOCATION.—Section 1933(g)(2) of such Act (42 U.S.C. 1396u–3(g)(2)) is amended—

(1) by striking ''and'' at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting ''; and''; and

(3) by adding at the end the following new subparagraphs:

''(D) for the period that begins on October 1, 2005, and ends on December 31, 2005, the total allocation amount is $100,000,000; and

''(E) for the period that begins on January 1, 2006, and ends on September 30, 2006, the total allocation amount is $300,000,000.''.

SEC. 3. EXTENSION OF THE TEMPORARY ASSISTANCE FOR NEEDY FAMILIES BLOCK GRANT PROGRAM, TRANSITIONAL MEDICAL ASSISTANCE, AND RELATED PROGRAMS THROUGH MARCH 31, 2006.

(a) IN GENERAL.—Activities authorized by part A of title IV of the Social Security Act, and by sections 510, 1108(b), and 1925 of such Act, shall continue through March 31, 2006, in the manner authorized for fiscal year 2005, notwithstanding section 1902(e)(1)(A) of such Act, and out of any money in the Treasury of the United States not otherwise appropriated, there are hereby appropriated such sums as may be necessary for such purpose. Grants and payments may be made pursuant to this authority through the second quarter of fiscal year 2006 at the level provided for such activities through the second quarter of fiscal year 2005.

(b) CONFORMING AMENDMENT.—Section 403(a)(3)(H)(ii) of the Social Security Act (42 U.S.C. 603(a)(3)(H)(ii)), as amended by section 2(b)(2)(A) of the TANF Emergency Response and Recovery Act of 2005 (Public Law 109–68), is amended by striking ''December 31, 2005'' and inserting ''March 31, 2006''.

(c) EXTENSION OF THE NATIONAL RANDOM SAMPLE STUDY OF CHILD WELFARE AND CHILD WELFARE WAIVER AUTHORITY THROUGH MARCH 31, 2006.—Activities authorized by sections 429A and 1130(a) of the Social Security Act shall continue through March 31, 2006, in the manner authorized for fiscal year 2005, and out of any money in the Treasury of the United States not otherwise appropriated, there are hereby appropriated such sums as may be necessary for such purpose. Grants and payments may be made pursuant to this authority through the second quarter of fiscal year 2006 at the level provided for such activities through the second quarter of fiscal year 2005.

SEC. 4. RESTRICTION ON COVERED DRUGS UNDER THE MEDICAID AND MEDICARE PROGRAMS.

(a) EXCLUSION UNDER MEDICARE BEGINNING IN 2007.—Section 1860D–2(e)(2)(A) of the Social Security Act (42 U.S.C. 1395w–102(e)(2)(A)) is amended by inserting ''and, only with respect to 2006, other than subparagraph (K) (relating to agents when used to treat sexual or erectile dysfunction, unless such agents are used to treat a condition, other than sexual or erectile dysfunction, for which the agent has been approved by the Food and Drug Administration)'' after ''agents)''.

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(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to drugs dispensed on or after the date that is 60 days after the date of enactment of this Act.

(c) CLARIFICATION OF NO EFFECT ON DETERMINATION OF BASE EXPENDITURES.—Section 1935(c)(3)(B)(ii)(II) of the Social Security Act (42 U.S.C. 1396v(c)(3)(B)(ii)(II)) is amended by inserting '', including drugs described in subparagraph (K) of section 1927(d)(2)'' after ''1860D–2(e)''.

EXTENSION OF MORNING BUSINESS

Mr. STEVENS. Mr. President, I ask unanimous consent that morning business be extended for 15 minutes.

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

Mr. BAUCUS. 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. 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.

SAVINGS AND ECONOMIC COMPETITIVENESS

Mr. BAUCUS. Mr. President, more than 10,000 years ago, on the eastern edge of the Mediterranean Sea, people became farmers. They started growing crops of emmer and einkorn wheat. They harvested the grain with curved, handheld sickle-blades.

And 5,000 years ago, Mesopotamian farmers yoked cattle to pull plows. The plows' bronze-tipped blades cut deeply, greatly increasing productivity.

Today, in Ethiopia, wheat farmers still harvest their wheat with oxen or by hand. They use tools much like those invented 5,000 years ago. An Ethiopian wheat farmer harvests an acre of wheat in a week.

A few weeks ago, in Montana, a wheat farmer whom I know near Fort Benton, in Chouteau County, finished harvesting this year's hard-red spring-wheat crop. He and his family drive a John Deere 60 series STS combine that they bought for more than $225,000, a couple of years ago. STS stands for the ''single-tine separator'' system that the combine uses for threshing and separating. The combine's rotor technology yields a smooth, free-flowing crop stream, giving the farmer higher ground speeds and increased throughput capacity. This Fort Benton wheat farmer harvests 5 acres and 220 bushels of wheat in half an hour.

What the Ethiopian farmer can do in a week, the Montana farmer can do in 6 minutes.

There are a lot of reasons for the difference: land, climate, seed quality, farming skills. But one big difference between the productivity of farmers in Ethiopia and the productivity of farmers in Montana is their tools—their physical capital.

Capital distinguishes the modern age. Capital is the most important reason why the average American earns about $40,000 a year and the average sub-Saharan African earns about $600 a year. Capital makes American workers more productive and more competitive.

This is my fifth address to the Senate on competitiveness. Starting this summer, I spoke on competitiveness generally. I spoke on the role of education in competitiveness. I spoke on the role of trade in competitiveness. I spoke on the role of controlling health-care costs in competitiveness. And today, I wish to speak about the role of capital and savings in competitiveness.

Capital means financial wealth—especially that used to start or maintain a business. Many economists think of capital as one of three fundamental factors of production, along with land and labor.

Capital and the productivity that it engenders set apart developed economies from the developing world. With capital investment, the construction worker uses a backhoe, instead of a shovel. With capital investment, the accountant uses a calculator, instead of an abacus. With capital investment, the office worker uses a personal computer, instead of a pencil.

In the late 1950s, there were about 2,000 computers in the world. Each of these computers could process about 10,000 instructions per second.

Today, there are about 300 million computers. Each of them can process several hundred-million instructions per second.

In less than 50 years, the world's raw computing power has increased four-billion-fold. This sustained increase in productivity is unparalleled in history. Capital investment in information technology made it possible.

In 1960, capital investment in information technology was about 1 percent of our economy. By 1980, investment in IT increased to 2 percent of our economy. By 2000, investment in IT increased to 6 percent of our economy.

These are slow, single-digit increases in investment. But look at the revolutions that they ignited.

This information technology investment contributed to a new era of American worker productivity and competitiveness. That productivity continues today. In the mid-1990s, when the benefits of IT investment kicked in, American workers began producing nearly 4 percent more per hour. As increased productivity surged through the economy, the standard of living improved for the Nation.

Capital made possible this unprecedented productivity. Investment made possible this capital. And savings made possible this investment. Savings is the seed corn for productivity growth.

National savings fuels investment. Investment provides capital to our workers. Capital ignites productivity. And productivity makes our economy accelerate.

Savings is what is left of income after consumption. National savings collects the surpluses of private households, businesses, and governments. When workers put part of their salaries into 401(k) plans, that adds to national savings. When companies hold on to their excess earnings and profits, that too adds to national savings. And when the government runs a budget surplus, that public sector savings adds to the national pool of savings, as well.

The three elements of national savings—household savings, corporate savings and public savings—are fundamental to economic competitiveness. Savings lets us invest in new factory equipment, machines, or tools. Savings lets us invest in high-technology innovations. Savings lets us invest in human, physical, and intellectual capital.

But America's level of national savings is dwindling. The decline of America's savings demands action.

At the end of last year, net national savings stood at just under 2 percent of gross domestic product. That is less than $2 for every $100 that our Nation earns. This is down more than 70 percent since 2000. No other industrialized country in the world has such a low national savings rate.

If we break down national savings into its component parts, we can see why national savings has fallen off. First the good news: Corporate savings has held steady—even increased—over the past decade. But the good news ends there.

Personal savings—what American households are contributing to the Nation's savings—has fallen dramatically. Just 10 years ago, Americans saved about $4 of every $100 that our economy produced. By the end of 2004, we were saving just 99 cents. And today? The recent data show that personal savings has fallen even further, below zero.

In July, for every $100 of disposable income that Americans generated, we spent that $100, plus 60 cents more.

Rather than saving, American households are borrowing. In the 1980s, total household debt equaled about 70 percent of a year's aftertax income. By 2004, household debt equaled 107 percent of aftertax income.

And the bad news gets worse. As American households fish pennies out of the Nation's piggy bank, there is a growing hole at the bottom. The public sector is draining national savings as the huge Federal budget deficits grow.

In just 4 years, the Federal Government's contribution to national savings has gone from a positive contribution of more than 2 percent of the economy, to a drain of more than 3 percent. Instead of contributing $2 for every $100 the economy earns, the Federal Government takes out $3 dollars. Government deficits are the chief cause of our abysmal national savings rate.

With national savings so low, how has America's economy remained an engine of growth?

We find the answer in Japan, Europe, China, and even the developing world.

Americans have stopped saving. But the rest of the world has not.

Today, Americans turn to foreign lenders for our savings. The rest of the world has become America's creditor, happily lending their savings to our Government, corporations, and households. Fully 80 percent of the world's savings come to America. The world's largest economy has become the world's largest debtor.

This is a big change. Between 1950 and the early 1980s, our foreign borrowing was balanced. Some years we borrowed from foreigners. And other years we lent. But for most years, we remained a net creditor.

Since then, our situation has dramatically reversed. We now depend on foreigners to fuel our economy.

Look at foreign and domestic investment flows. Last year, our net borrowing from foreign lenders totaled nearly $700 billion. This year, our net foreign borrowing could well exceed $800 billion.

This kind of borrowing adds up. As recently as 1985, America had zero net foreign debt. Today, America's net foreign debt is the size of nearly 30 percent of our economy.

The last time that we had this level of foreign debt, Grover Cleveland lived in the White House. The last time that

we had this level of foreign debt, 18 percent of Americans were unemployed, violent railroad strikes shook the Nation, and a deep depression gripped the world economy.

What is worse, soon, the ratio of foreign debt to GDP will hit 50 percent. In 7 years, the ratio will hit 100 percent.

This is unprecedented, not just for the United States. It is unprecedented for any modern industrialized country.

We welcome foreign investment in America. Our economy's openness to the world's capital has helped keep our economy strong. Foreign investment fuels our economy and creates good American jobs.

But if we continue to become increasingly dependent on foreign capital, then we will have to pay the piper.

First, continued borrowing means an ever-growing claim on our Nation's assets. The more that foreigners lend to America, the more dividend and interest payments they will collect—not Americans but them.

In 2005, for the first time since these data were recorded, America will pay more on foreigners' investments in America than American investors earn on their investments abroad. This year, these payments could amount to $30 billion. By 2008, these payments could rocket to more than $260 billion.

That would be a quarter of a trillion dollars paid out that would not boost our productivity. That quarter of a trillion dollars would increase foreign countries' standard of living, not ours.

That would be a quarter of a trillion dollars simply paying on our existing debt. More and more, we would have to borrow new amounts from foreign sources to pay back funds that we had already borrowed.

And that would be a quarter of a trillion dollars of behavior that one associates with a Third World economy, not the United States of America.

Second, foreigners are increasingly not investing their savings in America's productive sectors, but in U.S. Government securities. Foreigners are frequently buying our Government securities as part of schemes to manipulate currency markets and subsidize their exports. Those schemes further hurt our competitiveness and our future standard of living.

That is, they are not investing in plants and equipment, they are investing in our securities so they can accomplish other objectives and goals.

When 80 percent of the world savings flows to one country, the world economy is unbalanced. When 80 percent of the world savings flows to just the United States of America, that is a big imbalance.

This imbalance creates dangerous problems and distortions in the U.S. economy and throughout the world.

Eventually, the pendulum will swing back. The world economy will return to equilibrium. Foreign investors will decide to rebalance their portfolios. They will reduce their lending to America. America will have to pay more for its borrowing. Interest rates will rise. This rebalancing could cause severe dislocations in our economy.

We can steer clear of some of these costs. But we can do so only if we consider them now and do what we can to secure our economy from sudden and difficult adjustments later.

Where do we look for solutions?

America must increase its own national savings. We must finance more of our own investment.

We must create a reliable and stable pool of investment funding to fulfill our investment needs. This saving will also make us more profitable in the long run. We will gain the returns on capital investment here. We will not send them abroad.

We will continue to welcome foreign savings to our shores. But America will have a higher stock of self-financed investment.

How do we do this? First, we must plug the biggest leak in our national savings pool: the federal budget deficit. The federal government continues to run huge deficits. Prior to 2003, the record deficit was $290 billion in 1992. But in 2003, the government set a new record deficit of $375 billion dollars. In 2004, the government set an even higher record deficit of $412 billion dollars. This year, the government is projected to run a deficit of more than $300 billion dollars. The last 3 years have produced the 3 largest deficits in the Nation's history.

Now with the immense costs of Hurricane Katrina, Goldman Sachs now predicts that the deficits for the next 2 years will once again be about $400 billion. That would be 2 more years of deficits once again approaching record levels. Each year's deficit adds up.

These deficits increase our national debt. At the end of fiscal year 2001, the government's debt held by the public was $3.3 trillion. By the end of this month, economists project that debt held by the public will rise to $4.6 trillion. This would be an increase of 40 percent in just 4 years.

There are times when deficits are appropriate. If the economy is in a recession, net borrowing by the federal government can help to restore prosperity and job growth. But with the economy humming along now, huge deficits no longer serve Americans well. Instead, these large deficits divert domestic and international savings away from productive economic sectors. These productive sectors need savings to invest in innovative capital goods that can boost productivity, help our economy to grow, and improve our Nation's living standards.

We must be honest about our spending needs today and in the future. Budget forecasts for the near-term that neglect the costs of war and of neglect upcoming reductions in revenues—such as reform of the alternative minimum tax—serve no one but cynical political strategists. And the retirement of the baby boom generation beginning in 2008 will put enormous long-term pressure on the federal budget through increased Social Security, Medicaid, and Medicare spending. We must own up to these long-run problems.

Once we define the problem honestly, we must find ways to solve it.

First, we must restore the pay-as-you-go rules for both entitlement spending and tax cuts. We are stuck in a hole. We have to stop digging. We must pay for any new spending or tax cuts that we enact.

Until 2003, tough pay-as-you-go rules governed the Congressional budget process. But these rules expired in 2003. And a virtually meaningless alternative has taken their place. We must restore strong and meaningful pay-go rules.

Second, we must reduce the annual tax gap. As much as $350 billion of taxes went unpaid in 2001. Since then, the government has collected only $55 billion of that 2001 shortfall. These huge gaps occur every year. We cannot afford this tax gap.

Third, we must eliminate wasteful and unnecessary spending. For example, the Inspector General at the Department of Health and Human Services recently discovered that the government had paid nearly $12 million in benefits to recipients in Florida who had already died.

Fourth, we must eliminate wasteful and unfair tax breaks such as abusive tax shelters and corporate tax loopholes.

Finally, we must slow the growth in healthcare costs. We cannot rein in budget deficits without controlling the growth in healthcare costs. The private sector cannot sustain its current healthcare cost growth. And neither can the public sector. We cannot clamp down on healthcare costs in the public sector alone. Providers will just shift healthcare costs to the private sector. Fortunately, solutions that contain private sector healthcare costs will likely also help contain public sector healthcare costs, as well.

Taking these five steps would go a long way towards reducing Federal budget deficits and increasing national savings.

Increasing private savings is more complicated. We cannot adopt pay-as-you-go rules for families. Instead, we have to provide families with the tools that they need to develop their own growth plan.

The first tool is financial education. Too few Americans know how to develop a family budget. And too few know how to assess the risk of an adjustable rate mortgage when interest rates are rising.

We need to provide our children, and their parents and grandparents, with the tools that they need to make good financial decisions—to have more savings and less debt.

Programs such as ''Stash Your Cash''—a program to teach young people the basics of finance, saving, and investing—are a good start.

As part of ''Stash Your Cash,'' this summer, 15 pigs—each one 4 feet tall

and 750 pounds—appeared in the streets of Washington. And it was not just another political statement.

The colorful animals on street corners were oversized piggy banks. Local middle school students and artists painted each one.

''Stash Your Cash'' gets to kids early. It teaches them financial vocabulary, how to create a budget, and how and why they should save for the future. It teaches middle-school students that creating a budget helps them understand where their money goes, ensures that they do not spend more than they earn, finds uses for money to achieve goals, and helps them set aside money for the future.

We can all benefit from these lessons. Savings is vital for our children's and our families' financial future. And what is vital for our families is vital for our country.

Second, we need to make it easier to save.

The most successful savings programs are payroll-deduction savings through employer-sponsored 401(k) plans. We can make these programs even more successful by encouraging employers to enroll eligible employees automatically. Employees would opt out of saving instead of opting in. Without automatic enrollment, just two-thirds of eligible employees contribute to a 401(k) plan. With automatic enrollment, participation jumps to over 90 percent. The largest increases are among younger and lower-income employees.

Only half of private sector workers have a 401(k) or similar plan available to them. We need to bring payroll-deduction retirement savings to the other half.

Who is that other half? Part-time workers, those who put in less than 1,000 hours a year, do not have to be covered by 401(k) plans. Small employers are less likely to offer 401(k) plans, or similar arrangements, to their workers. And lower-income workers are less likely to have a plan available than moderate- and higher-income workers.

We have a voluntary pension system. We should not change that. But we can make savings opportunities available to more workers without forcing employers to provide more benefits.

Third, we need to make incentives for saving more progressive. Like many tax incentives, our current savings incentives give more bang-for-the-buck to those in the higher tax brackets. Our income taxes go to just the opposite.

In 2001, we took an important step toward fairness by creating the Saver's Credit. The Saver's Credit helps low-to-moderate-income taxpayers to save by providing a credit of up to half of the first $2,000 that they contribute to an IRA or 401(k) plan. More than 5 million taxpayers claimed this credit in 2001. It works. But it will expire after 2006. We must extend it and we must expand it to cover those with no income tax liability.

In ancient times, people viewed the toil of farming as a curse. The ancient text tells how when man left the Garden of Eden, he heard God say:

> Cursed be the ground because of you;
> By toil shall you eat of it
> All the days of your life:
> By the sweat of your brow
> Shall you get bread to eat,
> Until you return to the ground—
> For from it you were taken.

But now, increased investment, capital, and productivity have made it so that we may hear the blessing with which Moses blessed the children of Israel on the plains of Moab, across the River Jordan:

> The Lord will give you abounding prosperity in . . . the offspring of your cattle, and the produce of your soil in the land that the Lord swore to your fathers to assign to you. The Lord will open for you His bounteous store, the heavens, to provide rain for your land in season and to bless all your undertakings. You will be creditor to many nations, but debtor to none.

From ancient times, the sages recognized that the terms ''prosperity'' and ''debtor'' rarely apply to the same country.

Let us return to being a country whose saving provides the seed corn that brings those blessings of ''abounding prosperity.''

Let us seek the blessings of being ''creditor to many nations, but debtor to none.''

And let us do the work that we need to do to see that ''[t]he Lord will [continue]. . . to bless all [the] undertakings'' of this great Land.

I yield the floor.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2006—Continued

Mr. STEVENS. Mr. President, there have been so many legislative fellows and interns requesting to have seats on the floor, I am not sure there will be room for any regular staff soon. So I am going to start refusing to agree to floor privileges unless we are sure that there is going to be space for those staff who are assigned to work with members of the committee on this bill.

It is our hope we will be able to get to a vote on the Harkin amendment soon. I want to make a short statement, and that is, we have had some information from the Department of Defense.

May we go back on the bill now? We are back on the bill automatically?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. I call the attention of my colleagues to the fact that the money for Iraq and Afghanistan is in a reserve account in this bill and, theoretically, it should have started being available this Saturday. It will only be available when this bill is signed into law by the President.

Sometime during the first quarter, operating accounts for day-to-day operation costs—operation and maintenance for the Army, for the Marine Corps, and for the training efforts of Iraqis—are in the reserve account and will not be available. It is imperative we get this bill to the President so it can be signed to make the money available by the middle of November.

Increased fuel costs are putting pressure on operating accounts. We all know what it costs us when we pull up to a gas station and fill up a tank. It costs just as much or more to fill up the tanks in Iraq and Afghanistan for those people who are in the air and on the ground. That money is not going to be available unless we approve this bill.

One of the things that bothers me is that there is money in this bill to finance continued production of the C–130Js. That production contract is planned for mid-November, but there is no money available now. It will not be available until the 2006 bill is signed. There are a whole series of things in this bill that are designed to take the pressure off of the way the funding is being carried out at the Department of Defense. The ability to finance the improvised explosive device task force initiatives will be constrained unless that $50 billion portion of this bill is passed.

So I urge the Senate to help us get this bill through as quickly as possible. I know that is sort of difficult now with the recesses that are coming up, but very clearly we are starting to get amendments that are not germane to this bill, and I hope that will not go on.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. STEVENS. Mr. President, I and the Senator from Hawaii join in asking the clerks in both cloakrooms that they would send out a notice that we intend to move for third reading if there is no amendment presented within an hour.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

Mr. LEAHY. Mr. President, I discussed this with the distinguished floor managers.

First, parliamentary inquiry: Is the Harkin amendment now the pending business?

The PRESIDING OFFICER. It is the pending question.

Mr. LEAHY. I thank the Chair.

Mr. President, I ask unanimous consent that it be in order to set aside

that amendment so the distinguished Senator from Missouri and I could offer an amendment, and that upon the completion of action or the setting aside, whichever transpires first, it be in order to return to the Harkin amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 1901

Mr. LEAHY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for himself and Mr. BOND, proposes an amendment numbered 1901.

Mr. LEAHY. 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 appropriate $1,300,000,000 for Additional War-Related Appropriations for National Guard and Reserve Equipment for homeland security and homeland security response equipment)

On page 228, between lines 4 and 5, insert the following:

NATIONAL GUARD AND RESERVE EQUIPMENT

For an additional amount for ''NATIONAL GUARD AND RESERVE EQUIPMENT'', $1,300,000,000, to remain available until expended: *Provided*, That the amount available under this heading shall be available for homeland security and homeland security response equipment; *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

Mr. LEAHY. Mr. President, so Members will know, this amendment adds $1.3 billion in emergency funding for National Guard equipment to the supplemental portion of the fiscal year 2006 Defense appropriations bill. The funding is set aside for the National Guard to buy much needed items for homeland security and natural disaster response.

Hurricane Katrina exposed glaring deficiencies in the equipment available for the National Guard to respond to such disasters. After Hurricane Katrina, we had barely sufficient levels of trucks, tractors, communication, and miscellaneous equipment that is necessary to respond to the overwhelming scale of this storm. If we have another hurricane or, God forbid, a large-scale terrorist attack, our National Guard is not going to have the basic level of resources to do the job right.

As we know, in every one of our 50 States, we have seen in our career times where the National Guard was called upon to help. The National Guard Chief, LTG Steven Blum, recently noted that the Guard has only about 35 percent of what is officially required to respond to hurricanes, natural disasters, or possible terrorist attacks at home.

Yesterday, in an appearance in the House of Representatives, General Blum noted that Guard members responded to this disaster with insufficient and outdated communications. General Blum noted we are going to need at least—a staggering amount—$7 billion to procure the communications, trucks, medical supplies, and machinery necessary to respond to future disasters.

We knew, even before that hearing, that without any doubt there is an immediate need for at least $1.3 billion. We have to procure essential equipment such as a family of medium tractor vehicles, new SINCGARS radios, night-vision goggles, and other equipment.

I ask unanimous consent that a recent report from the National Guard on these critical needs be printed in the RECORD.

EXECUTIVE SUMMARY

National Guard units that deployed to combat since September 11th have been the best trained and equipped force in American History. $4.3 billion has been invested to provide those units with the very best, state-of-the-art equipment available in the world today.

This is an unprecedented demonstration of the DoD commitment to ensure that no soldier or aiman, regardless of component (Active, Guard, or Reserve), goes to war ill-equipped or untrained. With the help of the US Congress, this was accomplished over a two-year period. It is a reality for National Guard overseas combat deployments.

Now, the senior leadership of the DoD is extending the same level of commitment to the National Guard, the nation's first military responders in time of domestic need.

The DoD has a comprehensive reset plan that recognizes the National Guard's critical role in Homeland Defense and support to Homeland Security operations. This will take time and resources. I am confident that a real sense of urgency exists to make this a reality for America.

Communications equipment, tactical vehicles and trucks and engineer equipment are the National Guard's highest equipment priorities.

H. STEVEN BLUM, LTG, USA,
Chief, National Guard Bureau.

Mr. LEAHY. Mr. President, we got into this situation for two reasons:

First, unfortunately, with all the other needs of this country, we have traditionally underfunded the National Guard's equipment level. Second, much of the equipment the Guard does have is being used in the ongoing war effort in Iraq, Afghanistan, and in our needs across the Middle East and Central Asia. We all know there is no prospect that we are going to see it again back in the United States any time soon.

The distinguished senior Senator from Missouri, Senator BOND, and I cochair the Senate National Guard Caucus. On September 13, the two of us wrote the President to urge that the administration deal with this problem immediately. We want to demonstrate by our letter that this is not a partisan issue, it is a national issue.

We asked the President include the $1.3 billion in the next supplemental spending bill to deal with Hurricane Katrina. But we can't wait for the President to request the funding. We have to act now. The date this next supplemental spending bill will be submitted is still uncertain. We don't know when it is going to be submitted. But with this Defense appropriations bill, we have billions of dollars in emergency funding. Much of that emergency funding, rightly so, will go toward ensuring that our men and women abroad have the right tools to do their jobs. We should do that. But it is just as reasonable and necessary that we add emergency funding to deal with the equipment needs of our troops at home.

Certainly in the last couple of months, we have seen probably at no other time how much that equipment is needed, and we know there will be other occasions.

I praise Senator STEVENS and Senator INOUYE for including so much equipment money for the Guard in supplemental baseline bills. While most of that new equipment will go toward the Guard's overseas warfighting needs, our Guard and Reserve have a greater percentage and a greater activity than at any time in decades, and they need the help. The funding we are now asking for takes a big step forward.

I have worked with them closely. Of course, I want to see the amendment accepted. I will, of course, ask for a vote, if we can't reach such agreement.

I know the distinguished Senator from Alaska and the distinguished Senator from Hawaii have spent even more years in this body than I have, and they worked closely to help our National Guard. Senator BOND and I have done our best to fashion a reasonable and necessary piece of legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I rise today to join wholeheartedly my National Guard Caucus cochairman, the distinguished Senator from Vermont, in urging the Senate to adopt these emergency appropriations for our National Guard.

We have had a lot of talk about emergency responders and people wondered, Did this group do their job? Did that group do their job? As Governor of Missouri for 8 years, I saw the National Guard respond, and respond fully, to every natural disaster we had. We had floods, we had tornadoes, we had some other civil disorders, and the Guard responded. They responded with the equipment they needed.

Since that time, I have served in the Senate as cochairman of the National Guard. I have seen the Guard continue to respond to State emergencies time after time after time. When they have been called upon to go abroad as part of the national defense mission, they have done so extremely well.

Unfortunately, the men and women of the National Guard, those vital citizen soldiers who volunteer to serve their country, have not been well resourced. It appears when equipment

is available the Pentagon obviously takes care, first, of the active. In this situation, we have seen a tremendous drain on equipment—not just from emergencies around the country but from the National Guard's participation and contribution of equipment to our overseas mission. As a result, the equipment readiness in critical areas of the National Guard has fallen to about 34 percent. We are asking the men and women of the Guard to go into situations—whether they be overseas military situations or a vital rescue mission such as New Orleans—without the equipment.

Our Guard, along with others, responded and responded promptly to the disaster of the gulf coast. They were in Louisiana. They went proudly. We sent an engineer battalion from Jefferson Barracks in Missouri. They went down there, and they performed admirably. They had one set of trucks, one set of communications equipment, and one set of night vision goggles. The need was great, and they asked for a second of the National Guard engineering units to be deployed. We had to refuse, not because we did not have the personnel ready—we did not have the trucks, we did not have the communication equipment. We absolutely could not respond in that situation because of a lack of equipment.

When we read the stories about the National Guard's participation, one gets a better understanding of how effective and how responsive the National Guard is.

As the Senator from Vermont said, we have requested that an emergency appropriation be added to the supplemental. I join with him today in asking the Senate to approve as an emergency appropriations measure the money we need. This money is critically important. It includes trucks. The big trucks the National Guard has can drive through flood areas. They can rescue people. They can also go in war zones. They need night vision goggles. You may think night vision goggles are necessary primarily in war. Think about going into New Orleans, which has lost all of its power, all of its lighting, and you are trying to find people who are in grave personal danger because of the rising floodwaters. You need the night vision goggles to see them. Most importantly, think about communications. How do they work with other units, other Federal units, other State units, when they are on a civil mission? When they are under control of the local officials who have the responsibility, who have the local command, how do they communicate with them? They cannot in too many instances.

That is why this particular appropriation is so important that we begin resourcing our Guard. We can all be very proud of the Guard in our States. We do not have every Member of the Senate as a member of the National Guard Caucus, but I have not found a Member of this Senate who is not extremely proud of his or her National Guard. They know when the chips are down, when lives are in danger, the Guard can and will respond. The Guard comes to our defense regularly. The very least we can do is make sure we support the Guard when they go in. Not giving them the equipment they need is not an answer. We are not going to send them into harm's way without the equipment to do their job.

This is an important amendment. This is a large sum. We, obviously, are very much aware of the needs. This is a pressing need, and the emergencies and the wartime situation we are in compel a response to the needs of the Guard.

I thank my colleague from Vermont for offering this, and I urge my colleagues to join in seeing that the National Guard gets the appropriation resources they need. I thank the managers of the bill.

I yield the floor.

Mr. LEAHY. I thank the distinguished Senator from Missouri. I was going to suggest that if the Senator from Alaska and the Senator from Hawaii want to accept the amendment, we could actually get some significant business done right here.

While they are thinking about this, I must say there are few people in this Senate more senior than I, but certainly the Senator from Hawaii is much more senior, the Senator from Alaska is much more senior. They are only two of five people senior to me, and they want a quorum.

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

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

Mr. BOND. Mr. President, one of the minor procedural problems we have around here with an emergency clause is this has to go through several layers of clearance. It is not a higher pay grade, it is a different pay grade, it is a different responsibility. The distinguished floor managers are working on that. We have the budget committees and others who have to act on it.

I appreciate very much the work of Chairman STEVENS and Senator INOUYE. I hope we will be able to resolve this very shortly. We have two of the best leaders in the Senate handling this bill. Whatever needs to be done I assure my colleagues will be done.

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. STEVENS. 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. STEVENS. Mr. President, is the Harkin amendment the pending amendment?

The PRESIDING OFFICER. The Leahy amendment is pending.

AMENDMENT NO. 1886

Mr. STEVENS. I ask unanimous consent the Leahy amendment be set aside and the Harkin amendment be brought before the Senate.

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

Mr. STEVENS. We have had some conversations about this amendment. It is an amendment that raises the subject of the way the Government is going to approach the great problems associated with Asian flu. Under the circumstances, it has been my recommendation that we take this amendment to conference because then the subject will be in this bill. If the agencies involved can come together with an appropriate plan and request for money, we would then be able to do this in conference.

Although I have had some question about this amendment, we have discussed this now with the author of the amendment. As I indicated to him, if it would pass, I would cosponsor, and I ask that my name be added as a cosponsor.

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

Mr. STEVENS. I ask unanimous consent that the amendment be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Iowa.

The amendment (No. 1886) was agreed to.

Mr. STEVENS. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. STEVENS. The pending amendment is the Leahy amendment?

The PRESIDING OFFICER. The Leahy amendment.

Mr. STEVENS. Is that the Leahy-Bond amendment?

The PRESIDING OFFICER. It is.

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

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

Mr. BOND. Mr. President, I clarify with the desk that I am shown on the Leahy amendment; it is the Leahy-Bond amendment?

The PRESIDING OFFICER. The Senator is listed as a cosponsor.

Mr. BOND. I thank the Chair.

NOMINATION OF JOHN ROBERTS

Mr. President, while I have the floor, I will reflect a moment on the vote we took earlier today. This vote has such weight because of its place in our system of government. The Supreme Court is a final voice on the extent of the rights guaranteed by the Constitution, the demarcation of power between

the legislative and executive branch of Government, and the division of power reserved for the Federal Government and the governments of the individual States. As a Member of this legislative body and in a former life as a State Governor, I am acutely aware of the importance of the lines and the consequences when they are broached.

As a Member of the Senate, I do not welcome decisions overturning legislative acts that I support, but I frequently work with my colleagues to reject efforts to meddle in State affairs. As a Governor attempting to guide my State, I had to labor through many burdens placed in our way, the State's way, by an intrusive Federal Government.

The judicial branch of our Government—most notably the Supreme Court—has been designated by the Constitution as the branch to maintain these divisions of power and referee the tensions between our governments. After observing Judge Roberts during the days of hearings before the Committee on the Judiciary, I am convinced the power that comes with the vote of a Supreme Court Justice will be in wise and capable hands.

Throughout the strenuous sessions, Judge Roberts' intelligence, patience, and temperament were on full display. Judge Roberts made a convincing case through words and demeanor that he will approach his responsibility with modesty and humility.

Also, as Judge Roberts repeatedly reminded his inquisitors, he is not a politician. I commend him on his willingness to remind my colleagues that he was not before Congress to compromise or give hints on how he might vote on a hypothetical case in exchange for confirmation votes; rather, he confirmed repeatedly that the Constitution will be his guide to these questions.

I suspect that some of my colleagues have come to rely on the judiciary to advance changes that have no support in the duly elected member of our legislature, State and national; hence, their frustration with Judge Roberts.

Judge Roberts has clearly defined views of the role of the judiciary and the role of the legislature, and they do not appear to be blurred. As Judge Roberts put it so well:

> If the people who framed our Constitution were jealous of their freedom and liberty, they would not have sat around and said, "Let's take all the hard issues and give them over to the judges." That would have been the farthest thing from their mind.

As did the Founders, I do not believe State and National legislative bodies are incapable of settling tough and contentious issues. I do not believe it is benevolent or admirable for judges to remove questions from the public realm because they are divisive. Judge Roberts has shown the modesty and respect to refrain from that path.

Judge Roberts also has made it clear he finds no place for reflection on the public attitudes and legal documents of foreign lands in the consideration of constitutional questions. They do not and should not offer any guidance as to the words and the meaning of our own Constitution.

During his testimony, Judge Roberts displayed a respect for the Constitution and the rule of law as the principles that should guide him when ruling on a case. His view of the role of the judiciary is very consistent with my own.

Finally, I believe President Bush has executed his duties in a responsible manner that will serve our Nation well. He interviewed many distinguished and qualified judges and attorneys in the country. He consulted with Members of the Senate. After careful and thoughtful deliberation, President Bush returned to the Senate the name of John Roberts. I am very pleased today that 78 Members of the Senate agreed and confirmed him to the Supreme Court.

Mr. President, I thank the Chair and yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. MURRAY. 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 remarks of Mrs. MURRAY are printed in today's RECORD under "Morning Business.")

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I ask unanimous consent to speak for 6 minutes as in morning business.

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

(The remarks of Mr. ALEXANDER are printed in today's RECORD under "Morning Business.")

AMENDMENT NO. 1901

Ms. LANDRIEU. Mr. President, I ask unanimous consent to be added as a cosponsor of the Bond-Leahy amendment regarding additional funding for the Guard and Reserve.

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

Ms. LANDRIEU. This is relative to the extraordinary work that they did in Hurricanes Katrina and Rita and the extraordinary work that our Guard does throughout the Nation. In fact, as I speak, I am sure they are on the ground for this unfolding tragedy in California with the fires. I am not able to speak more fully at this time but I wanted to register my support for the amendment and will speak later tonight. I understand this amendment may be accepted. I thank my colleagues for their great support at this time of obvious need. The people of Louisiana and the gulf coast are grateful.

I yield the floor.

AMENDMENT NO. 1901, AS MODIFIED

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, the amendment before the Senate is now the Leahy-Bond amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. I have a modification at the desk. I ask unanimous consent that the amendment be so modified.

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

The amendment, as modified, is as follows:

On page 228, between lines 4 and 5, insert the following:

NATIONAL GUARD AND RESERVE EQUIPMENT

For an additional amount for "NATIONAL GUARD AND RESERVE EQUIPMENT", $1,300,000,000, to remain available until expended: *Provided*, That the amount available under this heading shall be available for homeland security and homeland security response equipment; *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (109th Congress).

Mr. STEVENS. There was one problem. The number of the Congress has been changed.

The PRESIDING OFFICER. The amendment is so modified.

Mr. STEVENS. I ask for consideration of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to amendment No. 1901, as modified.

The amendment (No. 1901), as modified, was agreed to.

Mr. STEVENS. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. STEVENS. 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. DURBIN. 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. DURBIN. Mr. President, is there a pending amendment before us?

The PRESIDING OFFICER. There is not.

AMENDMENT NO. 1908

Mr. DURBIN. I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN], for himself, Ms. MIKULSKI, Mr. CORZINE, Mr. SALAZAR, Mrs. MURRAY, Mr. LAUTENBERG, Mr. BIDEN, Mr. NELSON of Florida, and Mr. BINGAMAN, proposes an amendment numbered 1908.

Mr. DURBIN. 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 ensure that a Federal employee who takes leave without pay in order to perform service as a member of the uniformed services or member of the National Guard shall continue to receive pay in an amount which, when taken together with the pay and allowances such individual is receiving for such service, will be no less than the basic pay such individual would then be receiving if no interruption in employment had occurred)

At the appropriate place, insert the following:

SEC. ___. NONREDUCTION IN PAY WHILE FEDERAL EMPLOYEE IS PERFORMING ACTIVE SERVICE IN THE UNIFORMED SERVICES OR NATIONAL GUARD.

(a) SHORT TITLE.—This section may be cited as the ''Reservists Pay Security Act of 2005''.

(b) IN GENERAL.—Subchapter IV of chapter 55 of title 5, United States Code, is amended by adding at the end the following:

''§ 5538. Nonreduction in pay while serving in the uniformed services or National Guard

''(a) An employee who is absent from a position of employment with the Federal Government in order to perform active duty in the uniformed services pursuant to a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10 shall be entitled, while serving on active duty, to receive, for each pay period described in subsection (b), an amount equal to the amount by which—

''(1) the amount of basic pay which would otherwise have been payable to such employee for such pay period if such employee's civilian employment with the Government had not been interrupted by that service, exceeds (if at all)

''(2) the amount of pay and allowances which (as determined under subsection (d))—

''(A) is payable to such employee for that service; and

''(B) is allocable to such pay period.

''(b)(1) Amounts under this section shall be payable with respect to each pay period (which would otherwise apply if the employee's civilian employment had not been interrupted)—

''(A) during which such employee is entitled to reemployment rights under chapter 43 of title 38 with respect to the position from which such employee is absent (as referred to in subsection (a)); and

''(B) for which such employee does not otherwise receive basic pay (including by taking any annual, military, or other paid leave) to which such employee is entitled by virtue of such employee's civilian employment with the Government.

''(2) For purposes of this section, the period during which an employee is entitled to reemployment rights under chapter 43 of title 38—

''(A) shall be determined disregarding the provisions of section 4312(d) of title 38; and

''(B) shall include any period of time specified in section 4312(e) of title 38 within which an employee may report or apply for employment or reemployment following completion of service on active duty to which called or ordered as described in subsection (a).

''(c) Any amount payable under this section to an employee shall be paid—

''(1) by such employee's employing agency;

''(2) from the appropriation or fund which would be used to pay the employee if such employee were in a pay status; and

''(3) to the extent practicable, at the same time and in the same manner as would basic pay if such employee's civilian employment had not been interrupted.

''(d) The Office of Personnel Management shall, in consultation with Secretary of Defense, prescribe any regulations necessary to carry out the preceding provisions of this section.

''(e)(1) The head of each agency referred to in section 2302(a)(2)(C)(ii) shall, in consultation with the Office, prescribe procedures to ensure that the rights under this section apply to the employees of such agency.

''(2) The Administrator of the Federal Aviation Administration shall, in consultation with the Office, prescribe procedures to ensure that the rights under this section apply to the employees of that agency.

''(f) For purposes of this section—

''(1) the terms 'employee', 'Federal Government', and 'uniformed services' have the same respective meanings as given them in section 4303 of title 38;

''(2) the term 'employing agency', as used with respect to an employee entitled to any payments under this section, means the agency or other entity of the Government (including an agency referred to in section 2302(a)(2)(C)(ii)) with respect to which such employee has reemployment rights under chapter 43 of title 38; and

''(3) the term 'basic pay' includes any amount payable under section 5304.''.

(c) CLERICAL AMENDMENT.—The table of sections for chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5537 the following:

''5538. Nonreduction in pay while serving in the uniformed services or National Guard.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to pay periods (as described in section 5538(b) of title 5, United States Code, as amended by this section) beginning on or after the date of enactment of this Act.

Mr. DURBIN. Mr. President, this amendment has been offered before and agreed to before. Unfortunately, it has not been enacted into law. It does very well on the floor of the Senate. It just doesn't do very well in conference committee. For some reason, when it gets to a conference committee, it is usually removed. I hope this will be an exception because I think what we are talking about with this amendment is something that most Senators on both sides of the aisle would agree with.

The premise behind this amendment is as follows: If you are willing to serve in the Guard or Reserve and if you are willing, when activated, to leave your job and your family behind to risk your life for America, we should do our best as a nation to stand behind you. That is it.

How do we stand behind the men and women of the Guard and Reserve when they are activated to serve in Iraq and Afghanistan? In a variety of ways. Communities come forward, churches, friends, community groups help the family of a soldier who is overseas. But there is one other thing that happens that is as important, if not more. Many times that activated Guard or Reserve member faces a cut in pay. They have a good job. They have been activated. They have to serve for a year or more. They are being paid less during the time they are serving our country. So we encourage employers across America to stand behind their employees. If your employee is activated, stand behind your employee. Make up the difference in their pay.

It turns out that hundreds of corporations across America have said that is the right thing to do. That is the patriotic thing to do. Yes, we will stand behind the men and women activated into the Guard and Reserve. We will make up the difference in pay so that their families back home have financial peace of mind that they can pay the mortgage, the utility bills, keep the family together while that soldier is risking his life overseas.

We think so highly of these companies for their patriotism and dedication to our soldiers that we have created a Web site at the Department of Defense. You can go to it. It is a site that congratulates these employers for their devotion and allegiance to our troops.

Unfortunately, there is one employer that refuses to do this. It turns out it is the largest single employer of all the Guard and Reserve who are being activated. One employer that refuses, despite this Web site, despite all these speeches, one employer that refuses to stand behind the soldiers who were activated in the Guard and Reserve and to make up the difference in pay if they are paid less when they are activated than they were paid in civilian life. Who is this deadbeat employer that won't listen to these calls for patriotic responsibility to the men and women in uniform? What employer in America, after all that these soldiers have been through, will not stand behind them and make up the difference in pay? That employer is the Federal Government of the United States.

One out of 10 Guard and Reserve serving today are Federal employees. The Federal Government refuses to make up the difference in pay for those who have had a cut in pay because they are risking their lives for America.

I have offered this amendment time and again. I don't understand why it gets killed in conference committee every time I offer it. So many Senators come to the floor and say what a great idea it is. Yet when it goes to conference committee, it doesn't survive. This amendment brings the Federal Government into the 21st century and into line with countless other major employers. So many of America's top companies do the right thing for members of the National Guard and Reserve. So many of these are good patriotic corporate citizens in our private sector. But in the public sector, 24 State governments, including my home State of Illinois, provides the same income protection for their State government workers. Counties do it, cities do it, villages do it at great sacrifice, and we thank them for that.

This amendment simply allows the Federal Government to catch up with the times, to match what other major employers are already doing, and to provide the same type of income protection for our Federal Government civilian employees who also serve in the Guard and Reserve.

I propose this amendment because it is not clear that a real opportunity to

offer it will ever come on the Department of Defense authorization bill this year.

The Senate is on record as supporting this measure. We have passed it on three previous occasions. Two of those occasions were amendments to appropriations bills, such as the one before us.

This is the same language as reported out of the Governmental Affairs Committee last Congress, except this version does not include any retroactivity provision. Though I personally support that, this amendment doesn't go that far.

The Congressional Budget Office has confirmed that this measure has a cost but not a budget score. It is not retroactive. It is prospective only and subject to available appropriations. The funds to provide this differential pay to these Federal employees in the Guard and Reserve can come from funds already appropriated to the agencies for salaries. Twenty-four State governments do this. We have letters from those States attesting to the fact that the benefit has required no additional appropriations.

Many of my colleagues on both sides of the aisle have supported this measure in the past, and I thank them from the bottom of my heart for standing with our men and women in uniform.

Let me show data which is illustrative of what we are facing.

Recent data from the Department of Defense's newest ''Status of Forces Survey of Reserve Components'' tells us that 51 percent of reservists lose income during mobilization, and 11 percent lose more than $2,500 per month.

So in addition to the sacrifice of being separated from their family, risking their lives in service to their country, many of them are taking substantial cuts in pay.

The new ''Status of Forces Survey of Reserve Components'' also reveals that income loss is one of the top factors cited by National Guard and Reserve components as reasons they might choose to stop serving in Reserve components. This is not only an injustice that we in the Federal Government are not making up the pay differential, it, in fact, is one of the reasons some in the Reserve and Guard say they are not going to re-up. We cannot retain their good services to our country because of the economic sacrifice which that service creates.

The Department of Defense operates a program called Employer Support of Guard and Reserve—ESGR for short—which recognizes and pays tribute to those patriotic, outstanding employers who go beyond the legal minimum job protections in support of their workers who are citizen soldiers. ESGR operates this Web site which lists 900 companies, nonprofits, and State and local governments which offer this pay differential for mobilized workers. Search our Government Web site all you will, but you will not find the Federal Government on the list. We do not provide the same benefit to these men and women in service to our country as these other employers.

The number of employers providing this type of support to their workers in the National Guard and Reserve has grown steadily, and we owe them a great debt of gratitude for the love of country and devotion to our men and women in uniform, but the Federal Government is still not one of those employers.

I think this measure is long overdue. The Federal Government should not be lagging behind major corporations and roughly half of the governments of the States of the United States in terms of the quality of support for the men and women in the Guard and Reserve.

We should be a leader, not a follower. We should set the example right now with this amendment. We can fix this problem, and we can do it quickly.

Let me briefly make a few points for the minority of my colleagues who might continue to have reservations about this concept.

This measure does not bust the budget. Certainly, it results in some expenditures, but the money to make up for any lost income by these mobilized Federal workers is drawn from the funds already previously appropriated to the same agency the workers were serving in before they were activated. The money is already there. State governments that provide similar benefits report that they require no additional appropriations to meet this responsibility.

Second, this measure is not additional pay for military service. Reservists continue to receive the same military pay for the same military job. Any differential pay they receive from their Federal civilian employer is separate and apart from that and is simply intended to keep such employees financially whole while they are away. It is a reflection of the value they provided to their Federal agency before they were mobilized and a reflection of the value they will provide again when they return.

The military pay a reservist gets during mobilization is for the military role he or she performs and is utterly unchanged by this amendment.

Third, the wisdom of this amendment is readily understandable by the entire force, whether Active Duty or Reserve. Some people ask how to explain to an Active-Duty soldier or his or her family why a Reserve soldier sharing the same foxhole—to use an old colloquialism—performing the same duties, is allowed to draw both military pay as well as the lost portion of their civilian income. This is easy to explain and easy to understand.

Unlike Active component troops, Reserve component troops structure their lives and make their financial commitments based on their regular civilian income. Their house payments, their car payments, the kids' tuition payments—everything in their financial picture is based on the income of a civilian life. When that income disappears during mobilization and is replaced by lower military income, the family suffers a real hardship.

The Active component family may not suffer that hardship. They understood going in what the parameters of their family budgets were. Allowing a Federal civilian employer to alleviate this hardship for their workers, as many private employers already do, makes clearly explainable and understandable sense.

Soldiers take care of one another. No troop wants to see his buddy struggle or suffer problems with their family. Certainly, no Active-Duty soldier wants that Reserve soldier standing by his side helping him to fight this war to be distracted by financial hardship back home.

Let me tell you who endorses this legislation: the American Legion, the National Military Family Association, the Reserve Officers Association, the National Guard Association of the United States, and the Enlisted Association of the National Guard of the United States.

The reason to support this measure is simple and straightforward: the Federal Government cannot and should not do less for its employees in the Guard and Reserve than other major employers in America. It is time for the U.S. Government to be an employer which is as supportive of our troops as Sears, IBM, Home Depot, General Motors, and 24 State governments. They have already passed similar legislation. They have already made a commitment to our troops. How can we commend all these other employers who go the extra mile to support our troops while we fail to do so? Can we hold them up as examples and not be an example ourselves? I think the answer is no.

What we can do is adopt this amendment. I invite all my colleagues to come together once more to adopt the Reservist Pay Security Act, and I urge my colleagues on the Appropriations Committee, when this amendment is adopted, for goodness' sake and for the sake of these soldiers, don't kill it in conference committee. Stand by these soldiers all the way through the process. For years now, these soldiers have been shortchanged. It is time for us to make a difference in their lives and make a commitment to these great men and women.

Mr. President, I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER (Mr. CHAFEE). Is there a sufficient second?

At this moment, there is not a sufficient second.

Mr. DURBIN. Mr. President, I withdraw that request and ask for the adoption of the pending amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to amendment No. 1908.

The amendment (No. 1908) was agreed to.

Mr. STEVENS. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. 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. STEVENS. Mr. President, for the information of Senators, there will be no further action on the Defense appropriations bill tonight.

MORNING BUSINESS

Mr. STEVENS. I ask unanimous consent that we go into a period for morning business.

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

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. 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.

CONTINUING RESOLUTION

Mr. BYRD. Mr. President, here we go again, yes, here we go again. The fiscal year ends tomorrow at midnight. Only two of the annual appropriations bills required to fund the Federal Government have been sent to the President. This is deja vu all over again.

As a result, the Congress is rushing through the stopgap money measure called a continuing resolution in order to prevent a massive shutdown of the departments and agencies of the Federal Government.

Is this the way to run a government?

This is no way to run a government.

The appropriations process is a very simple process, in reality. The President sends his recommendations to the Congress in the form of a budget, usually in early February. Subsequently, the House formulates reports, debates and passes 11 annual appropriations bills. To its credit, the House has done exactly that. It has done its job.

What is wrong with the Senate?

I commend the chairman of the Appropriations Committee, Mr. COCHRAN. Yes, I commend him. With his steady leadership, the Senate Appropriations Committee has formulated and reported all of the annual appropriations bills. Eight of those appropriations bills have been passed by the Senate. Four appropriations bills are now pending in the Senate. This includes the Defense appropriations bill, the Transportation-Treasury appropriations bill, Labor-Health and Human Services-Education appropriations bill, and the District of Columbia appropriations bill, which is likely to be added to the Transportation appropriations bill in order to conform to the House version.

That is where we stand today.

What is the problem?

Regrettably, the Senate Leadership has not seen fit to bring three of our appropriations bills to the floor. This is not the fault of the chairman of the Appropriations Committee. He has called upon the leadership, as did I, to give the appropriations bills high priority in the scheduling of floor time.

The Labor-HHS-Education appropriations bill, the Transportation-Treasury appropriations bill, and the District of Columbia appropriations bill were approved by our Appropriations Committee over 2 months ago. I simply do not understand why the leadership is dragging its feet! Why not debate legislation that will fund critical investments in our schools, in our healthcare systems, and for our Nation's transportation infrastructure? Are Senators not going to have the opportunity to debate bills that provide over $211 billion?

We need to debate each of these funding bills individually. We need to conference them individually with our House counterparts—not just consider them as sub-parts of a large omnibus package. That is what I believe the chairman of the Appropriations Committee wants, and that is what I, too, would like to see happen. I urge my colleagues to work toward that goal.

It is unfortunate that most of the regular programs of the departments and agencies of Government will limp into the new fiscal year, which begins—when? this Saturday, the day after tomorrow, under the terms and conditions of a very restrictive continuing resolution. Here we are in the midst of one of the largest natural disasters to hit the United States, and only two regular appropriations bills have been enacted. One would think that the Congress would want to enact all of the annual appropriations bills before the beginning of the fiscal year so that the Federal agencies can hit the road running on October 1st and deal with the problems confronting the American people. Instead, we are enacting a very restrictive stop-gap measure that merely prevents the Government from shutting down. What a shame. It is very unfortunate that the House majority refused to fix the problem created by the continuing resolution for the Community Services Block Grant program, which provides critical healthcare and nutrition services to the neediest Americans. It is very unfortunate that, as we approach winter with fuel prices expected to grow dramatically, this continuing resolution reduces funding for the Low Income Home Energy Assistance Program.

In conclusion, I am disappointed that the appropriations bills have not been enacted on a timely basis. Having said that, I urge my colleagues to support the continuing resolution. We have no other choice.

I urge the leadership to call up the remaining appropriations bills, debate them, and send them to conference with the House. We have an obligation to the American people to get our work done. Debate and deliberation is what the Senate is supposed to be about—debate and deliberation and amending. The American people expect us to debate these bills and to protect the power of the purse and, thereby, protect their hard-earned tax dollars. These matters should not be swept under a carpet somewhere. More, not less, transparency is needed in debating appropriations bills. The Congress should have completed action on all the appropriations bills—not just two—on all the appropriations bills before the end of the fiscal year tomorrow night. Failing that, we should enact eleven individual, fiscally responsible annual appropriations bills before the termination of this continuing resolution on November 18th.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

IN REMEMBRANCE OF SAM VOLPENTEST

Ms. CANTWELL. Mr. President, I rise today to commemorate and pay tribute to the life of a great Washingtonian, a great American, and someone that I know even in the Nation's Capital will be remembered for his great contributions. Yesterday, I learned of the death of Sam Volpentest, a resident of Washington State, who lived to be 101-year-old.

Sam has continued to play a leadership role in our State. We were all proud of the fact that we all attended his 100th birthday party last year and that for the last several months he has continued to play a vital role in the State of Washington on important economic issues.

I am proud to say that Sam was a friend, and I am grateful for his mentorship and his wisdom. My thoughts are with his family and the larger Tri-City community that mourn his loss. This is a man who had a list of unending accomplishments and literally touched thousands of lives of his fellow citizens. He changed the course of history in Washington State and left his mark on this Nation's history, as well.

Sam's legacy was one of generosity, of leadership, of commitment, of inspiration—important lessons for Washingtonians to still benefit from.

My remarks today cannot justify the significance of his contribution. Sam moved with his family from Seattle to the Tri-Cities in 1949 and went into business as a tavern owner. The Tri-Cities was just at the beginning the epicenter of the nuclear age, a sleepy little town in Richmond that sprung to life when the Hanford site was selected in 1943 as the location of the Manhattan Project, plutonium production activities as part of President Roosevelt's strategy to win World War II. The Manhattan Project transformed the entire region from literally an agriculture and fishing economy centered on the Columbia River into a Federal booming town. It changed the course of our State and Nation's history.

Central Washington was booming, and Sam thought it was the right place for a salesman like him and his family; so he went to work right away on community and business issues.

It was his vision for the community that continued to push the community and the representatives who came here to Washington and those in Washington, DC, to further see the future in Washington State.

Hanford had grown due to the Federal investment in the Manhattan Project and later in support of the Cold War. At that time, Sam, a former salesman and tavern owner, found himself rubbing shoulders with the likes of Senators Jackson and Magnuson, and stories about Sam, Scoop, and Maggie are numerous and legendary.

I think this picture shows that even at that time, with my predecessors, Senator Warren Magnuson and Senator Scoop Jackson, Sam Volpentest even back then was right in the thick of things. The fact that he still consulted with Senator MURRAY and me up until the last several months showed his dedication to what this country needed to be focused on.

In 1956, Sam decided that Richland, WA—one of the Tri-Cities surrounding Hanford—looked too much like a construction camp. That is because it was a community that literally sprang up overnight out in the desert. Sam wanted that community to continue to grow.

The N-Reactor was one of the most critical investments in the Tri-Cities, with Sam Volpentest's fingerprints on it. The Hanford site evolved as our Nation's nuclear needs changed. Sam's efforts helped America stay in the lead during the nuclear age, put Americans to work, improved the lives of those living in central Washington, and it played an incredible role for our country.

In the mid-1960s, as the nuclear age transitioned, Sam saw the writing on the wall: the Tri-Cities would need to evolve with it. As Hanford's nuclear weapons material production activities began to slow, Sam's vision drove him to change his strategy as well.

I come back to a critical point I want to say. In the 1940s, as World War II raged in Asia, Europe, and North Africa, my State responded to the Federal Government's call. As Federal investment grew during the early days of the Manhattan Project, this remote area of our State responded with the energy infrastructure that was so critical in helping launch the nuclear age. This world's first large-scale production nuclear reactor, the B Reactor, located in our State, played an incredibly vital role.

The reason I emphasize that is because Sam realized that once that goal was achieved, the region needed to keep playing an important role in our national security issues, and that was through the contributions of its workforce and materials needed throughout our time period post-World War II.

Our contribution and Sam's continuing contribution was to make sure the Federal investment and cleanup work at Hanford was actually achieved. Sam knew that the Tri-Cities had a lot to offer our Nation, but he knew that the economy needed to have diversity and that cleanup was part of it. So what did Sam do? He went about convincing Federal officials, private investment, and other resources to come to Hanford and explore more efficient ways to clean up the waste, and not just at our site in Washington State but around the world.

Sam's vision led to a larger vision that has leveraged the workforce in the State of Washington. Those efforts led to the establishment of one of our National Laboratories, the Pacific Northwest National Lab in the Tri-Cities. Today, Federal research dollars spur research and development in countless scientific areas—from proteomics research, nuclear materials cleanup, biofuels, and many more.

Sam did not just want to get the work done; he wanted the workforce and the community to be safe. Sam worked to further the economic development and success of his community through a variety of government and community organizations.

One of his most important projects was helping the business community get access to small business contracts that were being part of the Federal work commissioned at Hanford. Some of the most notable projects Sam Volpentest is responsible for in the Tri-Cities in Washington State are a six-story Federal building in Richland, the inception of the Pacific Northwest National Laboratory, three freeways, twin bridges over the Columbia River, the N-Reactor Hanford Generating Plant, the Fast Flux Test Facility, the Life Sciences Laboratory and the Environmental Molecular Sciences Laboratory, the Hanford House/Red Lion Hotel, the Iowa Beef Processing Plant, and Sam's namesake, the Volpentest HAMMER Training and Education Center.

This training center is probably one of Sam's greatest accomplishments because it still today provides Hanford workers with real-time training in safety and response. The training facility now has trained countless first responders from governments all over our country and all over the world on how to respond to safety incidents from a more robust public participation. Sam's efficiency at this training facility gives those who are first responders the on-the-job-training they need.

Sam was often asked when he was going to retire—for example, whether it would be at age 65 or 75. He said: Why would I want to do that? Don't retire. Look to the future. Ask what you can do for your community that has been so good to you. Get out there and do something. And even if you do it for free, it will make you feel great afterward.

That was Sam Volpentest, a great Washingtonian, a great member of our country. We will miss ''Mr. Tri-Cities,'' and we will try to live up to his legacy of accomplishment and continue to bring about a good cooperative relationship between a key part of Washington State, the great Tri-Cities, and our Federal Government, in making sure the Volpentest legacy continues.

I yield the floor, Mr. President.

AMENDING THE CONTINUING RESOLUTION

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I thought the CR—the continuing resolution, as it is known around this place—was going to be laid down tonight. I guess it will not be laid down until tomorrow. But I will be offering an amendment the first thing in the morning on behalf of myself and a number of other cosponsors: Mr. KOHL, Mr. JEFFORDS, Mr. LEVIN, Mr. BINGAMAN, Mrs. CLINTON, Ms. STABENOW, Ms. MIKULSKI, Mr. LAUTENBERG, Mr. ROCKEFELLER, Mr. AKAKA, Mr. PRYOR, Mr. CARPER, and Ms. CANTWELL. I think by tomorrow morning there are going to be a lot more on this list.

It is basically a very simple amendment. All it says is:

> Notwithstanding section 101 of this joint resolution, amounts are provided for making payments under the ''Community Services Block Grant Act'' at a rate not less than the amounts made available for such Act in fiscal year 2005.

Well, what that means is that this amendment, then, will continue the community services block grants at last year's level.

Now, you might say: Well, wait a minute. Isn't that what a continuing resolution does, it continues everything at last year's level?

Well, we have a continuing resolution the likes of which I have never seen. I have not seen it in the last 10 years. I have asked my staff to go back 20 years or so to see if we had something like it.

Here is what the House has done. They have sent us a continuing resolution that continues funding either at last year's level or at the House budget level, whichever is lower—whichever is

lower. Now, what you will find out in there is that there are cuts in education, cuts to a whole lot of things. But most of those cuts do not take effect until next year. Education money goes out next summer. So for the continuing resolution, from now until—what?—November 18, I think it is, or something like that—a couple months—they will not be hit. But there will be a 50-percent cut in the Community Services Block Grants, which means by Saturday they will be cut 50 percent—right now.

Now, the occupant of the Chair, a former distinguished Governor of Virginia, I know he knows about the community services block grants. They do a lot in his State, as they do in our States: the Low Income Home Energy Assistance Program, housing, Head Start, transportation for the elderly, job search, all kinds of things, even helping low-income people apply for the earned income tax credit. There are a whole host of things done by Community Services Block Grants. It will be cut 50 percent, not next year, Saturday, Sunday. It will be a 50-percent cut immediately.

Now, I am going to read it into the RECORD this evening. I am sorry I have to keep the distinguished Senator in the chair for a little while tonight, but I think it is important for people to understand what we are doing here.

If this were just affecting programs like education next year—we are going to fix that by November, granted. But this is now. This happens now. The poorest of the poor in our country are going to get hit Saturday, Sunday, Monday, because of the wording of that continuing resolution, with a 50-percent cut, including victims of Hurricane Katrina, children all across the country.

We just had the mayor of Baton Rouge here the other day, Kip Holden. He was up here asking for more money for community services block grants. When he found out from my staff what the continuing resolution did in cutting it 50 percent, he couldn't believe it. He said they have been invaluable in assisting Katrina evacuees, getting things done that FEMA could not. He was up here pleading for more funding for community services block grants. He said it was beyond belief that Congress would be cutting this program at a time when it is most urgently needed. But that is exactly what the Congress will do if it passes this CR.

Once again, we are 1 day from the end of the fiscal year. Like an irresponsible schoolchild, the Congress has not completed its homework. It has finished 2 of the 11 appropriations bills. Why do we find ourselves once again in this sorry state of disarray? Consider the Labor-Health and Human Services appropriations bill, which is the bill that funds community services block grants. Under the very capable leadership of our distinguished chairman, Senator ARLEN SPECTER, our subcommittee did its job in a timely, orderly manner. We passed the Senate Labor-Health and Human Services-Education appropriations bill 2½ months ago, July 14. But once it left our committee, it seemed to disappear into a black hole. It hasn't been brought up on the floor. It is not even scheduled to be brought up on the floor. This is the bill that funds the community services block grants.

We didn't cut it. It was bipartisan. Republicans and Democrats on the subcommittee and on the full Committee on Appropriations voted to continue the funding for community services block grants at last year's level. Here we are, 1 day away from yet another end-of-fiscal-year train wreck.

Like actual train wrecks, this one will have real human casualties and victims, real hardship. This has not been done before. I know no one is here. There are no more votes tonight. Senators have all gone home. But I will be back on this floor tomorrow. We get 30 minutes tomorrow morning, 30 minutes to do something to protect the poorest of the poor, those who have no one to fight for them, those who rely upon our community service agencies out there to help them get through a tough time, to provide the Low Income Heating Energy Assistance Program. Even in Virginia, as well as Iowa, up in the northern part of the country, cold weather is starting to set in. It is in the 30s at night. Pretty soon it will get down to freezing, in October and November. We are going to need to get LIHEAP money out to these people. How are we going to do it when we have cut funding 50 percent? We are not supposed to speak about the other body here, but what could have been on their minds in doing something like this?

Now we are going to bring this up tomorrow. I assume the leadership is going to want us to rubberstamp it, a continuing resolution that will mandate drastic cuts to these vital services for the poorest of the poor, rubberstamp it, get it out of here, 30 minutes of debate tomorrow. We will talk about it. We will rubberstamp it, and we will get on our planes and go home. We are comfortable. We are going to be able to afford heat. We will be able to afford food for our families. We don't have anything to worry about. We make a lot of money around here. Eighty percent of this place is filled with millionaires. That is fine. We are comfortable.

Think about those who are not so comfortable. We are going to see devastating cuts. I mentioned serving victims of Hurricane Katrina. One hundred seventy-one thousand people, estimated not by me but by those involved with the evacuees, 171,000 people are being served under the community services block grants right now. It is 50 percent, this weekend—not next year, now—a 50-percent cut now. I don't know if people understand this. Poor people are going to suffer.

For the record, in fiscal year 2005, the CSBG was funded at $637 million, $636.6 million, to be accurate. The House provided $320 million for next year. Therefore, under this continuing resolution, which says you either take last year's level or the House level, whichever is less, that is what you do. Well, the House level is $320 million, a 50-percent cut.

I have a chart that shows the funding levels for community services block grants. In each of the last 3 years, it has been cut. The last time it was raised was in the fiscal year from 2001 to 2002 to $650 million. Ever since then, in fiscal years 2003, 2004, and 2005, it was cut from 650 to 645 to 642 to 636.6. Now they want to cut it in half. What is interesting about this chart is they want to cut it to 320 million. That is the level it was at in 1986. That is how much we provided in 1986 for the community services block grants.

I ask unanimous consent that this chart be printed in the RECORD.

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

COMMUNITY SERVICES BLOCK GRANT APPROPRIATIONS HISTORY

[In millions]

FY 2005	$636.6
FY 2004	642.0
FY 2003	645.8
FY 2002	650.0
FY 2001	600.0
FY 2000	527.7
FY 1999	500.0
FY 1998	489.7
FY 1997	489.6
FY 1996	389.6
FY 1995	389.6
FY 1994	385.5
FY 1993	372.0
FY 1992	360.0
FY 1991	349.4
FY 1990	323.0
FY 1989	318.6
FY 1988	325.5
FY 1987	335.0
FY 1986	320.6
FY 1985	335.0
FY 1984	316.8
FY 1983	341.7
FY 1981	394.3

Mr. HARKIN. We are saying to the poorest in our country: We are going to take you back to 1986.

I have a modest proposal. Why don't we take our Tax Code and move it back to 1986? Whatever people were paying in taxes, we will move everything back to then. How would the most comfortable in our society, the wealthiest, the richest, like that? I rather doubt that that would be something you would ever accomplish around here. Yet for the poorest people in our country, we can take them back to 1986.

I have been here 30 years. I have never seen anything like this: 170,000 victims of Hurricane Katrina; in Texas, 72,000 evacuees have been served by this program; in Louisiana, more than 43,000 hurricane victims. Almost all the community action agencies in the impacted area were up and running by the second day after the storm. They were finding shelter, feeding people, clothing people, getting them medical attention. Now they are helping victims find employment. Community action agencies have been actively working with faith-based organizations all across the gulf coast to provide relief

services. I mentioned what the mayor of Baton Rouge said. He was up here wanting to get more money for community services block grants. What does he get hit in the face with? Not only are you not getting more, they are cutting you in half. He couldn't believe it.

Nationwide, this cut would eliminate or disrupt essential services for some 6.5 million low-income people, including nearly 2 million children. A majority of rural outreach centers will be closed, denying entire rural communities access to services. Many of the one-stop neighborhood centers in suburban and urban areas would also be shut down.

Here is a chart that gives you an idea of what this 50-percent cut means. I mentioned 6.5 million people, 2 million kids. Communities will lose 21 million CSBG-supported volunteers. These are the volunteers the CSBG people pull together to do things. These are volunteers who want to, for example, volunteer their time to drive some elderly, low-income people to a community health center. These are good people, many of them church based, who volunteer their time to drive people to a meal site for a senior citizen meal. They volunteer their time to take low-income kids to a Head Start Program, for example. They are volunteers doing good things, but they need someone to pull it together, organize it, manage it, and get the transportation. That is what CSBG does. So we are going to cut it by 50 percent.

These volunteers are going to say: I would like to volunteer my time to drive these elderly, but you don't have any vehicle for me. Who is setting up the time? Who is making sure they are going to be there when I get there? No one. As a result, we are going to lose all these wonderful volunteers.

Private food banks all over the Nation rely on space, refrigerators, and transportation supported by CSBG. Think about all of the food banks all over America that are already being stressed to the limit. They are supported by the community services block grants. Now we are going to cut them in half. What happens to the space, what happens to the refrigerators, the transportation? Several million Americans will lose nutritional services and emergency food—not next year; this is not prospective. This is next week. The Low Income Home Energy Assistance Program is administered by CSBG. This cut will reduce staff in half, while home heating costs are expected to rise 50 to 70 percent. Cold weather is coming. Heating costs are going up. Cut CSBG.

That is something we can be proud of right? We can be proud of what we are doing here. What a shame.

These cuts are callous, ill advised, and they are cruel. This is cruel. I have no other way to say it. They are cruel. It couldn't come at a worse time. We know the rate of poverty is going up. Winter is coming on. We have had a couple of disasters, Rita and Katrina. What we are saying is, guess what, we are going to pull the rug out from underneath you. We are going to hurt you a little bit more. Maybe the House didn't know what they were doing. Maybe they didn't know this was in there. I don't know. What my amendment does is, it simply continues the level at last year's level. It ought to be increased by all rights. We know the number of Americans living in poverty has increased in each of the last 4 years. The purchasing power of community services block grants continues to decline. Each year, about 1 million more people qualify for community services block grant services. There is not any money to meet their needs right now. As bad as this is, the picture I am painting, right now community service agencies provide services to only 1 in 5 people in poverty; with $636 million, 1 in 5 are served. Now we are going to take that down even more.

I don't understand why the majority party in this Congress again and again proposes to slash programs from those who have the least in our society while adamantly insisting that tax cuts for the most fortunate are untouchable and sacrosanct. We can't touch them.

We all recognize that after 4 years of tax cuts, war and emergency spending, budget deficits are out of control. We all know this must be addressed, including with appropriate spending cuts. But what I don't understand is why we are asking the poor to bear the lion's share of the burden when it comes cutting the funding. Why are they on the front line? Why are they being cut this weekend? I object to repeated efforts by the majority party in this Congress to try to balance the budget on the backs of the poor. Even before Katrina struck, the majority party was already planning to slash food stamps by $3 billion and Medicaid by $10 billion. Katrina stopped that.

But who is the target of spending cuts? The poor, those who rely on Federal programs for health, education, disability, and veterans benefits.

Last week, a group of House Republicans launched what they call Operation Offset. They insist that all of the tax cuts of the last 4 years are off limits and untouchable, including the huge tax cuts for the most privileged and wealthy people in our society. Instead, Operation Offset would pay for Katrina recovery by slashing programs for the least fortunate among us, including deep cuts in Medicare, cuts in Medicaid, cuts to the School Lunch Program, cuts to the Children's Health Insurance Program, cuts in college aid, needy students, and on and on.

In short, with the leadership in this Congress, tax reductions for the rich are sacred and cannot be touched, while programs for the poor are fair game for deep cuts. I object. I object to this. I believe the clear majority of Americans reject this approach also. It offends their sense of fairness and equity.

This has to stop, and this is the place to stop it on this continuing resolution. We have to stop this one. This is so unconscionable. I don't know how anyone could ever feel good about this or feel we have done our job.

It is unconscionable, it is drastic, and it is cruel to cut the community services block grants in this manner.

I know what people are going to say tomorrow. They are going to come out here and say: Well, the House passed the continuing resolution and they have gone home. If my amendment is adopted, why, it has to go back to the House and they went home, and we will be accused of shutting down the Government.

Mr. President, I am sorry. The House of Representatives can come back on Palm Sunday. On Palm Sunday, they can come back to vote on the Terri Schiavo situation. Regardless of what you think about it, right or wrong, I am saying, if they can call the House back for that, if they can do that, they can call the House back to protect the poorest in our society from the cuts in the CSBG. We can pass it in the Senate, call the House back, and they can vote on it. We would not be shutting the Government down. If the House does not want to come back, they will be shutting the Government down. We are supposed to put a knife in the backs of the poorest in our country because the House did this? They can come back. We ought to force them to come back. We ought to force them to do what is right.

It is up to us in this body to have the correct response. We have to seize this opportunity and correct the misplaced priorities of the last 5 years and correct this one.

Last week, September 15, President Bush in New Orleans said:

> We have a duty to confront poverty with bold action.

Let me repeat that. You may not have gotten it the first time. President Bush said on September 15:

> We have a duty to confront poverty with bold action.

OK, so what we are going to do is pass a continuing resolution that cuts community services block grants by 50 percent—starting this weekend—that service the poor in our country. They are going to cut it by 50 percent. I guess that is pretty bold action. I guess they are going to confront poverty with bold action; yes, they are going to make more poor people. We have a duty to confront poverty with bold action.

I wonder if the President knows this. I wonder if anyone around the President has told him what the House did. I wonder if he is saying: Yes, that is the thing to do. Is the President okaying this? Has he sent word to the House that this is perfectly fine with him, that this comports with what he said last week?

I would like to hear from the President on this one. I would like to hear if he supports cutting community services block grants by 50 percent.

I would like to quote from a letter I recently received from a number of faith-based groups urging Congress to drop plans on the budget reconciliation to cut CSBG. I want to talk about it because it is appropriate to this. The group said the budget:

continues to ask our Nation's working poor to pay the cost of a prosperity in which they may never share. It is clear that programs, such as Medicaid and the Food Stamp Program that are slated for cuts by Congress, will, in fact, have greater burdens placed on them as a result of Hurricane Katrina. These programs represent the deep and abiding commitment of the Nation to care for the least among us.

I could not have said it better. As we look for ways to assist the least among us, we should not hesitate to ask the most among us to help share some of the burden. We need to restore this funding.

I said I was going to give an example of who is hit by this. I have two other letters. One is from Ozark Action, West Plains, MO; Ozark Community Action Partnership:

The result of a Continuing Resolution as proposed, which would be the reduction of CSBG funds by 50 percent, Ozarks Action, Inc., located in rural southern Missouri (Douglas, Howell, Ozark, Oregon, Texas and Wright counties), would be faced with reducing its current staffing levels by 50 percent. As a result many of the services to low-income families would become unattainable.

Currently we have staff located in 10 communities on a full time basis in each of these six counties. The reduction would mean that 5 [full time employees] would be reduced. The issue then becomes which of the six counties no longer will be served or will have significantly reduced services.

In addition to serving the resident low-income population in this high poverty service area, these ten staff carry out the function of providing services to those individuals that have come to the area as a result of the two devastating hurricanes (Rita and Katrina). . . .

CSBG staff also conducts LIHEAP services for both the Energy Assistance program as well as providing the emergency energy services.

I did not mention that. Sometimes low-income people, especially elderly, get caught with the first or second cold snap. They have not thought ahead, and maybe they don't have enough oil in the tank. They need some help right away. They don't have credit, and they don't have money. The community services block grants provide for that, to get them enough fuel oil, heating oil—whatever it might be—to get them through that snap. They say:

This in and of itself will put a large burden on the State to provide adequate service to those in need of energy assistance.

Mr. President, I ask unanimous consent that this letter from Ozark Action, Inc., be printed in the RECORD.

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

OZARK ACTION, INC.,
West Plains, MO.

The result of a Continuing Resolution as proposed, which would be the reduction of CSBG funds by 50%, Ozarks Action, Inc., located in rural Southern Missouri (Douglas, Howell, Ozark, Oregon, Texas and Wright counties), would be faced *with reducing its current staffing levels by 50%*. As a result many of the services to low-income families would be unattainable.

Currently we have staff located in 10 communities on a full time basis in these six counties. The reduction would mean that about 5 fte's would be reduced. The issue then *becomes which of the six counties no longer will be served* or *will have significantly reduced services*.

In addition to serving the resident low-income population in *this high poverty service area*, these ten staff carry out the function of providing services to those individuals that have come to the area as a result of the two devastating Hurricanes (Rita and Katrina). In Howell County, which has seen approximately 15 to 20 evacuee families, Ozark Action is operating as the clearing house and information hub for needs and services. This service would no longer be available with such steep reductions as a result of staff cost. Just in this past five days we have had three additional families move to the area and we believe that as families decided to move further north after deciding that returning home will not be an option or limited option in the future, we will see another wave of individuals moving to the area.

CSBG staff also conducts LIHEAP services for both the Energy Assistance program as well as providing the emergency energy services. This in and of itself will put a large burden on the state to provide adequate service and coverage for those in need of energy assistance.

Additionally, one of the remaining staff conducts Earn Income Tax credit returns from the period of January 1 through April 30th. This would have a major impact on those who receive EITC and will reduce the available income that these individuals receive through the EITC program.

CSBG Funds are used also, in a variety of ways, to support other agency programs where their own funding is inadequate. All such support would of necessity cease.

Sincerely;

BRYAN ADCOCK,
Executive Director, OAI.

Mr. HARKIN. Mr. President, I have another letter from East Missouri Action, again outlining what is going to happen here:

In the event that a continuing resolution is passed which would effectively fund CSBG at the FY–06 House appropriations level—

A cut of 50 percent—

serious cuts in services provided to low-income families in Southwest Missouri would occur. . . .

In-home visits will no longer be a priority. This will require more volunteers for clients who are home bound. Other catalytic activities such as life skills training workshops will be scaled back if not totally eliminated.

[East Missouri Action Agency] serves as the point of service for most other helping organizations in seven of our eight counties. . . . Families will be referred to other helping agency with little or no follow-up . . . we will not have the staff to effectively work with them.

I ask unanimous consent that this letter from the East Missouri Action Agency also be printed in the RECORD.

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

EAST MISSOURI ACTION AGENCY, INC.

BOLLINGER, CAPE GIRARDEAU, IRON, MADISON, PERRY, ST. FRANCOIS, STE. GENEVIEVE, & WASHINGTON COUNTIES

IMPACT OF CONTINUING RESOLUTION AT HOUSE FY06 FUNDING LEVEL

In the event that a continuing resolution is passed which would effectively fund CSBG at the FY-06 House appropriations level, serious cuts in services currently provided to low-income families of Southeast Missouri would occur.

1. Working with families and individuals in one-on-one case management fashion to help them achieve self-sufficiency and providing projects to assist them in this effort will have to be eliminated. The remaining resources will have to be expended doing only emergency services.

2. EMAA serves as the point of service for most other helping organizations in seven of our eight counties. EMAA serves as the clearinghouse and screener for emergency services throughout the county. There will be no time for discussion of the underlying causes of the emergency situation with these families. Families will be referred to the other helping agency with little or no follow-up. Partnerships with these other organizations will be in jeopardy because we will not have the staff to effectively work with them.

3. As just recently seen with Hurricane Katrina, EMAA was one of hundreds of CAAs which mobilized relief efforts even before several of the national charitable organizations and the Federal Government itself mobilized. CAAs have always had the flexibility to rise to the need in these situations, however, with this cut, that ability is gone.

4. Community Change projects such as, resource development, poverty awareness & education, housing development, community gardening, emergency service coordination networks, leadership development, childcare development, and other projects to improve the community at large will be greatly scaled back due to the lack of funding.

5. In-home visits will no longer be a priority. This will require more volunteers for clients who are home bound. Other catalytic activities such as life skills training workshops will be scaled back if not totally eliminated. If we do not receive a special grant for income tax assistance, we may have to discontinue the VITA income tax assistance project which leveraged $1.4 million in our eight county area for 2004. If we do not provide this free income tax assistance for the low income families in Southeast Missouri, for-profit vendors will, which will reduce the benefit to the families even more.

Mr. HARKIN. Mr. President, people say, What do community services block grants do? Here are some of their activities: Parenting education to 175,000 Head Start families, helping people be good parents; transportation for elderly Americans to medical appointments, which I mentioned earlier, such as the community health centers; home ownership counseling for the low income, how they might be able to afford and pay for their own home; mentoring and counseling for at-risk youth; in-home chore services for homebound elderly. Think about that. Domestic violence services. I mentioned refrigerators and transportation services for food banks; transitional housing for homeless families. You wonder what happens to homeless families? Community service action agencies find them transitional housing and especially now with winter coming on. Lead inspection programs,

screening homes for lead-based paint, and we know how devastating that is on low-income children. Food stamp outreach, going out to make sure low-income people know they are eligible for food stamps, that they do not have to go hungry.

Community services block grant networks, let me talk about who these people are. Their local networks were made up of 1,090 local eligible entities, of which 88 percent were Community Action Agencies.

The local agencies use CSBG funding for their core operations developing and for developing and coordinating programs to fight poverty in 99 percent of the counties in the United States.

Who are the participants? Who are served? Twenty-two percent of all persons in poverty—I said about 1 out of 5; we are going to make it even lower than that—more than 15 million individuals who were members of almost 6 million low-income families.

Data provided by 4 million families show that more than 2.7 million had incomes at or below the poverty guideline. Think about this. Of these, 1.1 million families were ''severely poor'' with incomes below 50 percent of the poverty guideline. That means for a family of 4, we are talking about less than $7,000, probably $7,500 a year; 1.1 million families with less than $7,000 a year. That is who is being served by the community services block grant.

Another 1.6 million families had incomes between 50 percent and 100 percent of the poverty guideline; almost 1.7 million working poor families who relied on wages or unemployment insurance and collectively made up 44 percent of all program participants; nearly 430,000 families were TANF, Temporary Assistance to Needy Families; twenty-two percent of TANF monthly caseloads are CSBG clients; and about 1.4 million families are headed by single mothers.

These program serve more than 3.7 million children in poverty, 1.8 million adults who had never completed high school, 1.1 million people who were disabled, 3 million who lack health care.

That is who is served. I just mentioned all the programs that serve these people.

In my own State of Iowa, northwest Iowa, northeast Iowa, southwest Iowa, they are talking about how much they are going to have to cut back. In a five-county area in northwest Iowa, services at seven outreach centers which assist over 10,000 each year, have been scaled back. This is a 50-percent cut. This is not phony stuff. This is real. In a seven-county area in northeast Iowa, the Community Action Agencies already had to reduce office and staff hours in eight family service offices due to reductions in CSBG funding over the last 2 years. With a 50-percent reduction in CSBG, the family services staff will likely be reduced from 16 full and part-time individuals to 7 individuals employed less than 40 hours a week. That is to serve a seven-county area in northeast Iowa.

In Iowa, this is the time of the year temperatures are starting to drop and food supplies are running short as gardens stop producing. I think I just picked the last tomato off my tomato plant last week.

Without staff to take and process applications and provide assistance, the LIHEAP program year starts October 1. That is what, Saturday? That is Saturday. The LIHEAP program year starts October 1, Saturday.

In northeast Iowa, the CAA there faces an inability to ensure that those in poverty will continue to receive home heating assistance and food assistance. If CSBG is reduced—this is southeast Iowa—by 50 percent, the agency will have to reduce staff and close one very rural outreach center. That will mean clients who need emergency assistance for food, utilities, disconnect notices would have to drive about 45 miles to apply for assistance. These are people who probably do not even have transportation. They do not own cars.

The centers—I am reading here from the report—are terribly busy with the increase in the number of families coming to the outreach centers because they have been evicted, about to become homeless, have a disconnect notice from their utilities or their utilities have already been disconnected.

President Bush, September 15, 2005:

> We have a duty to confront poverty with bold action.

I hope someone in the bowels of the White House is listening to a little bit of my remarks. They do not have to buy it all. I hope they listen to a little bit of it. I hope that something will click up in one of those heads in the White House and say: Wait a minute. Is Harkin right? Could this possibly be happening? He must be wrong. He is just up there doing his thing. But just in case, we better check on it. I hope somebody at the White House is saying, maybe we ought to check on this.

When they check, they will find out I am right. What the House has sent us will cut it 50 percent starting Saturday, and it will have these effects. One may say, Oh, no, it will not, but it will.

That is why I have not come out on the floor to bemoan the CR for the cuts in education because we are going to fix that. The money for education does not go out until next summer. We have time to take care of that. The other cuts that are in the CR, we can take care of that. I would not go on like this if it was just education because we are going to have time to fix it later on. That is not what I am talking about. I am talking about something that is right now, needs the money now, the money goes out now, not next year—now, October 1. October 1, they will be cut 50 percent just like that. There is no carryover money. There is not a lot of money sitting someplace that they can carry over.

We have already cut this program, as I said, in each of the last 3 years. This Senate—well, I should say the Appropriations Committee, I cannot say the Senate, the Appropriations Committee passed it at last year's level, bipartisan, Republicans and Democrats.

I hope someone in the White House may have picked up on this. I hope they are going to check it, and I hope one of them will say: We cannot leave our boss hanging out there. Our boss said this and our boss meant it.

I believe he did mean it. But he probably does not know.

The President is busy. I am not faulting him for that. He probably does not know what the House did.

I would like to believe that if this person in the White House who may have listened to this or picked up on it and checked out and found out that that is exactly what the CR does, the continuing resolution does, they will get to someone higher up the food chain to get to the President to let him know about this, and maybe the President will get on the phone and he will call the leadership and say: You have to do this. You have to adopt this amendment. You cannot leave me hanging out there having said this and then turn around and expect me to sign a continuing resolution that cuts the poorest of the poor.

That is what we would be saying. He said that last week. Now he is going to get something and he has to sign it. I would hope the President might get on the phone or at least have his Chief of Staff or somebody do it and tell them we have to fix this. If it means the House of Representatives comes back on Friday afternoon or Friday evening or Saturday morning to fix it, so be it.

So they are going to be a little uncomfortable—oh, my goodness. I assume some Congressmen have probably gotten on a plane, and they went someplace, they have gone home. My goodness, they will have to get on an airplane—not at their expense. The Government will pay for it. They do not have to pay anything for it. They have to go to an airport, get on an airplane, fly back to Washington, put on a suit and tie and go back to the House floor and correct this. I know it is a terrible burden. It is a terrible thing to ask of someone making $160,000 a year, or whatever we make around here now.

Well, I jest, tongue in cheek. It is not too much to ask. They should do it, and the President should tell them to do it. Come back here and fix this. Do not leave him hanging out there having said that last week.

Heaven forbid that we should have the House come back and work on a Friday. My, my, work on a Friday? Whoever heard of such a thing? The working poor work on Friday. Or maybe they have to come back Saturday and fix it, Saturday morning or Friday night. Poor people work at night. They are working two jobs.

No, I am sorry, I do not mind making Members of the House uncomfortable if they have to get on a plane or come back to the House and fix this. That is a small price to pay to make sure that

we live up to what the President said a week ago. This is not even bold action. This is continuing to do what we have been doing in the last year. It is not too much to ask. It is time that we made the comfortable a little bit uncomfortable so we can give some comfort to those who are uncomfortable.

We will be voting on this tomorrow. I hope that Senators will not be swayed by this, ''Well, we cannot do this because the House has gone home.'' Well, let us comfort the uncomfortable. Let us tell the poorest of the poor we are not going to leave them in the lurch, we are not going to cut them by 50 percent, and let us have them come back and fix this tomorrow night. They can do it.

I appreciate the indulgence of the occupant of the chair for allowing me to talk about my amendment because I will not have much time in the morning. I only have 30 minutes. Some other people may want to talk. I know no one is here. I hope some people may be watching and taking heed of this. I will be back tomorrow morning, in a more succinct manner, obviously, to lay out this case on why we have to adopt an amendment to keep the community services block grants at last year's level.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, it is my understanding that the Senator from Iowa, Senator HARKIN, has come to the floor to offer an amendment that makes reference to the community services block grant funding and the possibility that if we pass a continuing resolution without adequately funding this program, communities all across America will be denied some basic funds they need.

I have made a point, as I travel around my State of Illinois, of asking village presidents and mayors and leaders how this money is used. It turns out to be money that is essential for many programs. It is one of the most unusual programs in that there is such a wide variety of things that are done with these dollars by communities, from afterschool programs for children at risk to programs for senior citizens that are essential for their well-being.

I am sorry I wasn't here earlier to join with Senator HARKIN, but I come to the floor in support of his effort. America can do better. We can make certain that we fund these essential programs so that the vulnerable across America are not left behind. If we focus on this, as we should have before Hurricane Katrina—and we will in the future—it is going to be a stronger nation.

I want to make sure my voice is added to that of Senator HARKIN in support of this valuable program.

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

The PRESIDING OFFICER. The clerk will please call the roll.

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent there now be a period of morning business with Senators permitted to speak for up to 10 minutes each.

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

REIMBURSING CHARITABLE WORK

Mr. ALEXANDER. Mr. President, earlier this week the Washington Post reported that the Federal Emergency Management Agency was making plans to ''reimburse churches and other organizations that have opened their doors to provide shelter, food and supplies to survivors of hurricanes Katrina and Rita.''

I understand FEMA's good intentions here, but we need to be very careful. There may be extraordinary circumstances when FEMA may need to rent buildings that might happen to belong to a church or mosque or synagogue. And I understand that under both Presidents George W. Bush and Bill Clinton, there have been appropriate ways to provide charitable choice and to fund faith-based organizations. I support that. I am currently working with Senators on both sides of the aisle on our Health, Education, Labor, and Pensions Committee on legislation to help all of Katrina's 372,000 displaced schoolchildren, including some who are enrolled in private and even religious schools. But the kind of reimbursement described in the Washington Post article makes me want to waive three yellow flags and two red ones.

One obvious concern is constitutional. The first amendment says that ''Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.'' Paying churches for work they choose to undertake as churches raises obvious questions. That is not my major concern. My major concern is making sure that we honor what it has always meant in America to be a volunteer, to be charitable, and to respect our religious traditions.

When Jesus fed the loaves and the fishes to the multitude of 5,000, he didn't send the bill to Caesar. As Americans with a strong religious tradition, we believe in helping our neighbors. In the book of Mark, Jesus tells us to ''love the Lord thy God with all thy heart, and with all thy soul, and with all thy mind, and with all thy strength'' and to ''love their neighbor as thyself.'' This idea of loving and caring for our neighbors is not limited to Christianity. Jesus himself drew the commands to love God and love our neighbor from the Old Testament in Deuteronomy and Leviticus. I don't ever remember reading: ''Love God, love your neighbor, and send the bill to Washington for the expenses.''

From pioneer days, volunteering and helping our neighbors has been an essential part of the American character. No other country in the world has anything similar to what we have in their traditions. They do not give as we give. They do not have that same spirit. It is one of the things that makes this a unique country. Our forefathers would be dumbfounded to think that if a neighbor's barn burned down and the community joined together to rebuild it, that they would expect a check from Washington, DC to pay them back.

In that same Washington Post article, Reverend Robert E. Reccord of the Southern Baptist Convention helped put this in balance when he said:

> Volunteer labor is just that: volunteer. We would never ask the government to pay for it.

At my church in Nashville, Westminster Presbyterian, where I am an elder, we took up a collection for the victims of Katrina and raised about $80,000 in cash. We then filled up the parlor in the church with other things that we were told they needed in southern Mississippi. We loaded up a truck with diapers and Clorox and other necessities, and our associate pastor went down there with that truck for a few weeks to help people in need. Are we now supposed to send the Federal Government a bill for the food and the supplies and three weeks of the pastor's salary? Of course not. No one in our church expects that, nor should they.

So churches and synagogues and mosques and religious organizations that are being good neighbors aren't looking for a Government handout. They are looking to lend a hand. We should respect them. We should thank them. We should honor them. They are performing an invaluable service. We encourage them by providing tax incentives for charitable giving. But we should also remember that virtue is often its own reward and that some rewards are in heaven, and we should be very careful before we start reimbursing churches for their charity.

I ask unanimous consent that the article from the Washington Post to which I referred be printed in the RECORD.

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

[From the Washington Post, September 27, 2005]

FEMA PLANS TO REIMBURSE FAITH GROUPS FOR AID—AS CIVIL LIBERTARIANS OBJECT, RELIGIOUS ORGANIZATIONS WEIGH WHETHER TO APPLY

(By Alan Cooperman and Elizabeth Williamson)

After weeks of prodding by Republican lawmakers and the American Red Cross, the Federal Emergency Management Agency said yesterday that it will use taxpayer money to reimburse churches and other religious organizations that have opened their doors to provide shelter, food and supplies to survivors of hurricanes Katrina and Rita.

FEMA officials said it would mark the first time that the government has made large-scale payments to religious groups for helping to cope with a domestic natural disaster.

''I believe it's appropriate for the federal government to assist the faith community because of the scale and scope of the effort of how long it's lasting,'' said Joe Becker, senior vice president for preparedness and response with the Red Cross.

Civil liberties groups called the decision a violation of the traditional boundary between church and state, accusing FEMA of trying to restore its battered reputation by playing to religious conservatives.

''What really frosts me about all this is, here is an administration that didn't do its job and now is trying to dig itself out by making right-wing groups happy,'' said the Rev. Barry W. Lynn, executive director of Americans United for Separation of Church and State.

FEMA officials said religious organizations would be eligible for payments only if they operated emergency shelters, food distribution centers for medical facilities at the request of state or local governments in the three states that have declared emergencies—Louisiana, Mississippi and Alabama. In those cases, ''a wide range of costs would be available for reimbursement, including labor costs incurred in excess of normal operations, rent for the facility and delivery of essential needs like food and water,'' FEMA spokesman Eugene Kinerney said in an e-mail.

For churches, synagogues and mosques that have taken in hurricane survivors, FEMA's decision presents a quandary. Some said they were eager to get the money and had begun tallying their costs, from electric bills to worn carpets. Others said they probably would not apply for the funds, fearing donations would dry up if the public came to believe they were receiving government handouts.

''Volunteer labor is just that: volunteer,'' said the Rev. Robert E. Reccord, president of the Southern Baptist Convention's North American Mission Board. ''We would never ask the government to pay for it.''

When Hurricane Katrina devastated New Orleans and the Gulf Coast, religious charities rushed in to provide emergency services, often acting more quickly and efficiently than the government. Relief workers in the stricken states estimate that 500,000 people have taken refuge in facilities run by religious groups.

In the days after the disaster, house Majority Leader Tom DeLay (R-Tex.) and other Republicans complained that FEMA seemed reluctant to pay church groups. ''There are tons of questions about what is reimbursable, what is not reimbursable,'' DeLay said Sept. 13, noting that Houston alone had ''500 or 600 churches that took in evacuees, and they would get no reimbursement.''

Becker said he and his staff at the Red Cross also urged FEMA to allow reimbursement of religious groups. Ordinarily, Becker said, churches provide shelter for the first days after a disaster, then the Red Cross takes over. But in a storm season that has stretched every Red Cross shelter to the breaking point, church buildings must for the first time house evacuees indefinitely.

Even so, Lynn, of Americans United for Separation of Church and State, said that federal reimbursement is inappropriate.

''The good news is that this work is being done now, but I don't think a lot of people realize that a lot of these organizations are actively working to obtain federal funds. That's a strange definition of charity,'' he said.

Lynn added that he accepts the need for the government to coordinate with religious groups in a major disaster, but not to ''pay for their good works.''

''We've never complained about using a religious organization as a distribution point for food or clothing or anything else,'' Lynn said. But ''direct cash reimbursements would be unprecedented.''

FEMA outlined the policy in a Sept. 9 internal memorandum on ''Eligible Costs for Emergency Sheltering Declarations.'' Religious groups, like secular nonprofit groups, will have to document their costs and file for reimbursement from state and local emergency management agencies, which in turn will seek funds from FEMA.

David Fukitomi, infrastructure coordinator for FEMA in Louisiana, said that the organization has begun briefings for potential applicants in the disaster area but that it is too early to know how many will take advantage of the program.

''The need was so overwhelming that the faith-based groups stepped up, and we're trying to find a way to help them shoulder some of the burden for doing the right thing,'' he said, adding that ''the churches are interested'' but that ''part of our effort is getting the local governments to be interested in being their sponsor.''

A spokeswoman for the Salvation Amy said it has been in talks with state and federal officials about reimbursement for the 76,000 nights of shelter it has provided to Katrina survivors so far. But it is still unclear whether the Salvation Army will qualify, she said.

The Rev. Flip Benham, director of Operation Save America, an antiabortion group formerly known as Operation Rescue, said, ''Separation of church and state means nothing in time of disaster; you see immediately what a farce it is.''

Benham said that his group has been dispensing food and clothing and that ''Bibles and tracts go out with everything we put out.'' In Mendenhall, Miss., he said, he preached to evacuees while the mayor directed traffic and the sheriff put inmates from the county jail to work handing out supplies.

Yet Benham said he would never accept a dime from the federal government. ''The people have been so generous to give that for us to ask for reimbursement would be like gouging for gas,'' he said. ''That would be a crime against heaven.''

For some individual churches, however, reimbursement is very appealing. At Christus Victor Lutheran Church in Ocean Springs, Miss., as many as 200 evacuees and volunteer workers have been sleeping each night in the sanctuary and Sunday School classrooms. The church's entrance hall is a Red Cross reception area and medical clinic. As many as 400 people a day are eating in the fellowship hall.

Suzie Harvey, the parish administrator, said the church was asked by the Red Cross and local officials to serve as a shelter. The church's leadership agreed immediately, without anticipating that nearly a quarter of its 650 members would be rendered homeless and in no position to contribute funds. ''This was just something we had to do,'' she said. ''Later we realized we have no income coming in.''

Harvy said the electric bill has skyrocketed, water is being used round-the-clock and there has been ''20 years of wear on the carpet in one month.' When FEMA makes money available, she said, the church definitely will apply.

REMEMBRANCES OF SAM VOLPENTEST

Mrs. MURRAY. Mr. President, I rise this evening to share the very sad news that Sam Volpentest—a name many of us in Congress know well—passed away last night at the age of 101.

Here in our Nation's Capital, Sam was a near constant fixture—always searching for new ways to help his beloved community of the Tri-Cities to move forward.

To fully appreciate Sam's contributions, you have to understand something about the geography and history of my State. The Tri-Cities—which are Richland, Pasco, and Kennewick—are located on the Columbia River in the southeastern region of Washington State.

From the Hanford nuclear facility, to the pristine beauty of the last free-flowing stretch of the Columbia River, to the many varied agricultural and business challenges, the Tri-Cities are diverse and very unique.

Located across the Cascade Mountains from Seattle and other population centers, it could be pretty easy for these three communities to have their needs overlooked.

Well, Sam made sure that never happened.

Whenever something important was happening in the Tri-Cities, I could always count on Sam to show up in my Senate office to share it with me, even if I didn't know he was coming.

I vividly remember many years ago when the chair of the Energy Committee cut funding for the construction of HAMMER. HAMMER is a world-class training facility located in Richland, WA.

Well, I like to think I am always on top of the issues affecting my home State, but Sam kept me on my toes. I showed up at my office one morning at about 7:30 a.m. Guess who was already there, standing there, waiting for me outside my door. Sam Volpentest.

Although Sam may have only had about an inch or two on me, that man's passion could move mountains. And on that day, his passion was for building HAMMER.

Well, I didn't want to mess with Sam, so I marched right into that Energy Committee chairman's office, and I fought side by side with Sam to restore those cuts. And we won.

I was proud to stand with Sam at the HAMMER groundbreaking ceremony in July of 1995. Sam was 91 years young at that time. I still have that shovel on display in my office as a reminder of

what we can all do if we have passion and heart, and if we work together.

Just look at HAMMER today. It is a first-rate facility that keeps Hanford workers safe.

HAMMER has created jobs. It has created economic opportunities and development, and it has the potential now to be a Homeland Security training center for first responders across the country.

Our entire country owes Sam a debt of gratitude for all he has done for so many people.

During my years in the Senate, I have worked with a lot of people. But no one—no one—has come close to matching Sam's energy, his commitment, and his success.

Sam has been a role model to me and to all of us who want to spend our lives giving something back to the communities we care about most. I thank him for helping me be a better representative for all the people of my home State.

Sam was a one-person Chamber of Commerce. He was a visitor's center and he was a cheerleading squad all wrapped into one. Sam Volpentest was the heart and soul of the Tri-Cities. He was one of a kind. Sam will be dearly missed, but he will not be forgotten.

LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

On October 31, 2002, Patrick Vogrich a State-funded caregiver, bludgeoned his disabled client Larry Rap to death with a hammer in an apartment outside of Chicago, IL. The apparent motivation for the attack began when Mr. Rap ran into Mr. Vogrich with his wheelchair. According to police, Mr. Vogrich was convicted of murder on November 19, 2002.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

SEQUENTIAL REFERRAL REQUEST—INTELLIGENCE AUTHORIZATION ACT FOR FY 2006

Mr. WARNER. Mr. President, I ask unanimous consent that my letter to the majority leader dated September 29, 2005, be printed in the RECORD.

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

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, September 29, 2005.

Senator BILL FRIST,
Majority Leader, U.S. Senate,
Washington, DC.

DEAR MR. LEADER: Pursuant to paragraph 3(b) of S. Res. 400 of the 94th Congress, as amended, I request that the Intelligence Authorization Act for Fiscal Year 2006, as just reported by the Select Committee on Intelligence, be sequentially referred to the Committee on Armed Services for a period of 10 days. This request is without prejudice to any request for an additional extension of five days, as provided for under the resolution. Moreover, the amended resolution provides that the period of referral does not begin to run until the committee to which the bill is referred receives the bill, ''in its entirety and including annexes.'' Thus, the 10 days of initial referral will not begin to run until the Committee on Armed Services receives the classified annex to the bill, as well as the bill and report.

I request that I be consulted with regard to any unanimous consent or time agreements regarding this bill.

With kind regards, I am
Sincerely,

JOHN WARNER,
Chairman.

NATIONAL HISPANIC HERITAGE MONTH

Mr. FEINGOLD. Mr. President, we are currently observing National Hispanic Heritage Month, a time when many members of the Latino community and the country at large remember and celebrate the profound contributions of Hispanic culture that are woven into the great cultural fabric of America. National Hispanic Heritage Month is celebrated between September 15 and October 15, to coincide with the Independence Day anniversaries of nations throughout Latin America. In 1968, President Lyndon Johnson's proclamation of National Hispanic Heritage Month was authorized by Congress. In 1988, the recognition was expanded to a month-long celebration.

America is home to nearly 41 million Latinos, including a thriving population in my home state of Wisconsin. This month, we should take the time to embrace the many important contributions throughout American history of American Latinos that affect all of our everyday lives. This month we celebrate the historic efforts of Cesar Chavez, Jaime Escalante, Roberto Hernandez, Henry Cisneros, Ellen Ochoa and Roberto Clemente, to name just a few. We celebrate their work to break down barriers and create bridges for future generations.

But as we celebrate Hispanic heritage, it is also time to address the challenges that face the Hispanic community, such as access to education and health care, fair working conditions, racial profiling and, for many, an ability to keep their family together while working to become legal, permanent residents of this great country. I am a strong supporter of the SOLVE Act, introduced by Senators KENNEDY and MCCAIN, that would help keep many Latino families together while their petitions for permanent legal residency are processed. The legislation would help hard-working Hispanics and others become legalized citizens and would offer a new temporary worker program.

While we work to improve the immigration system, we must enhance the education of Latino students. Many Latino students face social, economic, and language barriers that can prevent them from receiving the top-quality education they, like all American students, deserve. We must increase funding for English proficiency programs, programs to help low-income students attend college, and programs to help parents involve themselves in their children's education. It must be a priority for Congress to ensure equal education for all so the Hispanic community can continue to flourish and contribute to American culture.

In closing, I express my hope that the 109th Congress begins to address these and other pressing priorities for Latinos across the country. We should not limit our celebration of National Hispanic Heritage Month to saluting the achievements of Hispanics, we also need to make sure that we act on the educational, health, labor and other needs of all Americans of Hispanic heritage.

WATER TECHNOLOGY AND INTERNATIONAL AID

Mr. DOMENICI. Mr. President, fresh water is a substance that we as Americans assume will be available when and where we want it. However, the disruption of water and wastewater services following Hurricane Katrina and Hurricane Rita has shown how fragile those assumptions can be. The resulting fear, panic and instability are what we rarely experience in this Nation. However, as we look around the globe, those same fears, sense of panic, and sense of instability is a daily occurrence for over 1 billion people across the globe who have little or no hope for a speedy resolution of their concerns.

We must help solve the expanding problems of insufficient clean drinking water and inadequate wastewater treatment. These are matters of international importance for several reasons. First, we are a member of an increasingly international economy, and the expansion or contraction of economies the world over affects our industry and economy. Furthermore, disease knows no borders and can spread through water. Most importantly, we care about the well being of others. All these national policy goals are intimately related to adequate water and wastewater treatment across the world.

There are many ways that we can help address this world-wide problem. However, lasting solutions require that local individuals and institutions have the capacity to maintain and expand their own services.

This point has been hammered home by a report to be released by the Center for Strategic and International Studies and Sandia National Laboratories today. The report reinforces what any organization addressing international water issues already knows: the local community must accept, embrace, maintain and take responsibility for the solution to their water issues. There are several initiatives in place in our country that are helping local communities across the globe in this regard.

The Department of Energy National Laboratories have tested tools and techniques for improving our domestic capacity in the desert southwest. The labs have shared that information with institutions around the globe to help strengthen local capacity.

As an example, Sandia National Laboratories' efforts to create new technologies to address major U.S. water issues are being applied to critical water issues in the strategically important Middle East. Ongoing interactions with Iraq, Jordan, Libya and Israel are helping address water safety, security and sustainability issues with technologies in water management modeling, water quality monitoring and desalination.

Sandia is also working to rebuild Iraq's science and technology capacity in collaboration with the Arab Science and Technology Foundation and the Departments of Energy and State. Just last week in Amman, Jordan, Sandia co-hosted a meeting where proposals developed by Iraqi scientists and their international collaborators were reviewed and presented to international funding agencies. Two such proposals for improving water resources management in Iraq were presented by Sandia staff and their Iraqi counterparts.

Separately, Sandia is working with the United Nations Educational, Scientific, and Cultural Organization to develop a proposed planning framework for water management in Iraq. This framework will utilize an advanced water management model developed at Sandia coupled with training of Iraqi water managers and scientists. This proposed framework is expected to be presented to Iraq's Ministry of Water in November.

In other areas, Sandia has reached a preliminary agreement with the Royal Scientific Society, RSS, in Jordan to pilot test a new technology for real-time collaborative development of water management models over the Internet. This technology will enable U.S. and Jordanian water experts to jointly assemble, test and deploy water management models, working in real time while half a world apart. Sandia has also developed a proposal with the Jordanians to pilot test real-time water quality monitoring technology utilizing Sandia's chem-lab-on-a-chip technology.

In Libya, Sandia is working on a program with the Departments of Energy and State to refocus former Libyan weapons scientists on development of peaceful technologies that will enable Libya to develop a strong, internationally-engaged economy. Water is a very high priority for the Libyans, and they are reconfiguring their former weapons development laboratory into a facility they have named the Renewable Energy and Water Desalination Research Center. Sandia is helping identify desalination technologies for use in Libya, with particular attention to technologies for treating the brackish water that is produced as a by-product of pumping oil and gas.

Further, Israeli water experts came to Sandia in 2003 to learn about water security. The trip led to a series of visits between Israeli water security experts, the Environmental Protection Agency's National Homeland Security Research Center, and Sandia. These interactions resulted in a collaborative proposal to test Sandia's real-time, chem-lab-on-a-chip water quality monitoring technology in Israel's water supply system.

Congress helped develop these tools by allowing the Department of Energy Laboratories to use part of their resources for laboratory directed research and development. In the case of Sandia, these seed funds have produced sensor technologies to test water for contaminants and terror agents, numerical models to help groups jointly manage and plan for the future and reduce conflict, water treatment technologies that may reduce costs and make impaired water available for beneficial uses, and tools to detect and respond to terrorist attacks in our municipal drinking water systems. These seed projects have then been extended and are coming to fruition under direct funding we have provided through the Department of Energy, DOE.

The work at Sandia National Laboratory does not represent a comprehensive list of all the achievements within the DOE. In fact, twelve of our national laboratories, all of whom have worked to expand and protect water supplies in some way, have worked jointly for three years to develop an outline of the ways water and energy resources are inter-related. These institutions are now working under DOE direction to develop a report to Congress on this interdependency, which I believe will help us determine which programs will most effectively ensure sufficient water supplies to support our energy needs and sufficient energy supplies to meet our water needs.

Additionally, these national laboratories are now working with both Federal and non-Federal institutions around the U.S. to develop a technology development roadmap. This effort will clearly identify our highest priority investments in research, development and commercialization so we can expand our nations' water supplies.

The success of these investments led us to authorize a new DOE program as part of the Energy Policy Act of 2005. That program is broad. I believe that overall it will help resolve problems related to water just as we are working to resolve our energy supply problems. I am particularly interested in the technology development aspects of the program and therefore plan to introduce a bill soon to instruct the DOE to focus attention on technology development and commercialization. A similar bill was introduced last Congress in partnership with Members from the House, and I have high hope that working together we can pass legislation this Congress.

I must note that DOE efforts are not the only activities that can assist the U.S. in addressing international water issues. The Bureau of Reclamation has a 30-year history of developing desalination technologies that have a significant international impact. The Bureau's reputation and capabilities in this area cannot be underestimated, and I hope the administration will develop a long-term strategy for use and expansion of those resources. Further, I have supported the Office of Naval Research's efforts to develop mobile water treatment technology for our troops. This technology has proven its worth by being deployed to Mississippi in the aftermath of Hurricane Katrina.

Additionally, my colleague and friend, Majority Leader FRIST, introduced legislation this spring entitled the ''Safe Water Currency for Peace Act of 2005'', S.492, which directs the Department of State to develop a cohesive international water development policy and then to begin to implement that strategy. This policy effort holds strong promise for the future of water as well.

I believe and remain a champion of the need to look ahead, to see the future of water supplies in this nation and the world and to actively prepare for that future. I have said before, and I still believe, that there is no more important or essential substance to us than water. It is the source from which life springs. It also has the potential to be the source of incredible conflict at both local and international levels. Fresh water supplies are coming under pressure all over the globe. Seriously confronting this problem before it leads to tremendous burdens on this nation and the world is an endeavor as worthwhile as any I can contemplate. The need is great. The goal is good. The initiatives I have discussed today, and others like them, can help us confront this problem.

AVIAN INFLUENZA

Mr. BIDEN. Mr. President, I am pleased to support and cosponsor Senator HARKIN's amendment aimed at enhancing our capability to combat an avian flu pandemic. This amendment provides absolutely crucial funding for key items that will clearly be needed to fight off this menace: a substantial stockpile of the only antiviral medication effective against H5N1 flu; expansion of the ability of our State and

local public health departments, which are the first line of defense against flu, to meet the threat; increased global surveillance for dangerous pathogens to pick up the first signs of a spreading epidemic, a priority issue that Senator FRIST and I have worked on for several years; improving our country's infrastructure for vaccine manufacture, which is sorely deficient; and money for communication and outreach, so we can have everybody prepared and on the same page.

We are all concerned about preparation for bioterrorist attacks. Smallpox, anthrax, plague, and other pathogens may be coming down the road at some point. But the public health experts tell us that H5N1 avian flu has already started down the road. It is not in the U.S. yet, and the scientists don't know when it might get here, but it is heading in our direction. The avian flu virus is spreading throughout Asia, carried by migratory waterfowl with a worldwide reach. The virus is continuously changing and adapting, heading toward the human-to-human transmission capability that could trigger a pandemic.

And we do know from the first 100 human cases, which have been limited so far to Southeast Asia, that this stuff is really lethal, with a case-fatality rate approaching 50 percent. By contrast, the deadly 1918 Spanish flu that killed millions of people had a case-fatality rate of only 2 percent. We're talking about a threat to this Nation as big as any we have faced.

Fortunately, we have a good idea of the measures we need to take to mitigate the impact of avian flu. But these measures cost money and have a significant lag time before they can be put in place. Many of these measures require resources only available in foreign countries. We don't know how much time we have got, and we have got to get moving on this right now. We really can't wait weeks and months for the ''right'' appropriation bill, for some ''advisory committee'' to finish its work, or for the completion of a ''comprehensive'' antiterror plan. The responsible, prudent move is to act now, to start putting in place the countermeasures that we know will work if implemented in time. The old philosopher who said that ''an ounce of prevention is worth a pound of cure'' may not have known anything about RNA viruses, but that advice would seem quite applicable to our current situation.

BUDGET SCOREKEEPING REPORT

Mr. GREGG. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of S. Con. Res. 32, the first concurrent resolution on the budget for 1986.

This report shows the effects of congressional action on the 2005 budget through September 13, 2005. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the 2006 concurrent resolution on the budget, H. Con. Res. 95.

The estimates show that current level spending is over the budget resolution by $3.145 billion in budget authority and over the budget resolution by $101 million in outlays in 2005. Current level for revenues is $447 million above the budget resolution in 2005.

Since my last report for fiscal year 2005 dated September 20, 2005, the Congress has cleared and the President has signed the TANF Emergency Recovery and Response Act of 2005, Public Law 109–68, that increased budget authority for fiscal year 2005.

I ask unanimous consent that the accompanying letter and material be printed in the RECORD.

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 26, 2005.

Hon. JUDD GREGG,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The enclosed tables show the effects of Congressional action on the 2005 budget and are current through September 23, 2005. This report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended.

The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions for fiscal year 2005 that underlie H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2006. Pursuant to section 402 of that resolution, provisions designated as emergency requirements are exempt from enforcement of the budget resolution. As a result, the enclosed current level report excludes these amounts (see footnote 2 on Table 2).

Since my last letter, dated September 15, 2005, the Congress has cleared and the President has signed the TANF Emergency Recovery and Response Act of 2005 (P.L. 109–68) that increased budget authority for fiscal year 2005.

The effects of the action listed above are detailed in the enclosed reports.

Sincerely,

DOUGLAS HOLTZ-EAKIN.

TABLE 1.—SENATE CURRENT-LEVEL REPORT FOR SPENDING AND REVENUES FOR FISCAL YEAR 2005, AS OF SEPTEMBER 23, 2005

[In billions of dollars]

	Budget resolution [1]	Current level [2]	Current level over/under (−) resolution
ON-BUDGET:			
Budget Authority	1,996.6	1,999.7	3.1
Outlays	2,023.9	2,024.0	0.1
Revenues	1,483.7	1,484.1	0.4
OFF-BUDGET:			
Social Security Outlays	398.1	398.1	0
Social Security Revenues	573.5	573.5	0

Note: * = less than $50 million.

[1] H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2006, assumed the enactment of emergency supplemental appropriations for fiscal year 2005, in the amount of $81.8 billion in budget authority and $32.1 billion in outlays, which would be exempt from the enforcement of the budget resolution. Since current level excludes the emergency appropriations in P.L. 109–13 (see footnote 2 of Table 2), the budget authority and outlay totals specified in the budget resolution have also been reduced (by the amounts assumed for emergency supplemental appropriations) for purposes of comparison.

[2] Current level is the estimated effect on revenue and spending of all legislation that the Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made.

Source: Congressional Budget Office.

TABLE 2.—SUPPORTING DETAIL FOR THE SENATE CURRENT-LEVEL REPORT FOR ON-BUDGET SPENDING AND REVENUES FOR FISCAL YEAR 2005, AS OF SEPTEMBER 23, 2005

[In millions of dollars]

	Budget authority	Outlays	Revenues
Enacted in Previous Sessions: [1]			
Revenues	n.a.	n.a.	1,484,024
Permanents and other spending legislation	1,109,476	1,070,500	n.a.
Appropriation legislation	1,298,963	1,369,221	n.a.
Offsetting receipts	−415,912	−415,912	n.a.
Total, enacted in previous sessions:	1,992,527	2,023,809	1,484,024
Enacted This Session:			
Authorizing Legislation:			
Surface Transportation Extension Act of 2005 (P.L. 109–14)	16	0	0
TANF Extension Act of 2005 (P.L. 109–19)	81	45	0
Surface Transportation Extension Act of 2005, Part II (P.L. 109–20)	15	0	0
Surface Transportation Extension Act of 2005, Part III (P.L. 109–35)	3	0	0
Surface Transportation Extension Act of 2005, Part IV (P.L. 109–37)	5	0	0
Surface Transportation Extension Act of 2005, Part V (P.L. 109–40)	2	0	0

TABLE 2.—SUPPORTING DETAIL FOR THE SENATE CURRENT-LEVEL REPORT FOR ON-BUDGET SPENDING AND REVENUES FOR FISCAL YEAR 2005, AS OF SEPTEMBER 23, 2005—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
Energy Policy Act of 2005 (P.L. 109–58)	0	0	40
Safe, Accountable, Flexible, and Efficient Transportation Equity Act: A Legacy for Users (P.L. 109–59)	1,562	8	0
TANF Emergency Response and Recovery Act of 2005 (P.L. 109–68)	5,067	0	0
Appropriation Acts:			
Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (P.L. 109–13) [2]	−1,058	4	41
Interior Appropriations Act, 2006 (P.L. 106–54)	1,500	120	0
Total, enacted this session:	7,193	177	81
Total Current Level [2, 3]	1,999,720	2,023,986	1,484,105
Total Budget Resolution	2,078,456	2,056,006	1,483,658
Adjustment to budget resolution for emergency requirements [4]	−81,881	−32,121	n.a.
Adjusted Budget Resolution	1,996,575	2,023,885	1,483,658
Current Level Over Adjusted Budget Resolution	3,145	101	447
Current Level Under Adjusted Budget Resolution	n.a.	n.a.	n.a.

Notes: n.a. = not applicable; P.L. = Public Law.

[1] The effects of an act to provide for the proper tax treatment of certain disaster mitigation payments (P.L. 109–7) and the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (P.L. 109–8) are included in this section of the table, consistent with the budget resolution assumptions.

[2] Pursuant to section 402 of H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2006, provisions designated as emergency requirements are exempt from enforcement of the budget resolution. As a result, the current level excludes $83,140 million in budget authority and $33,034 million in outlays from the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (P.L. 109–13), $10,500 million in budget authority and $350 million in outlays from the Emergency Supplemental Appropriations Act to Meet Immediate Needs Arising From the Consequences of Hurricane Katrina, 2005 (P.L. 109–61), and $51,800 in budget authority and $25 million in outlays from the the Second Emergency Supplemental Appropriations Act to Meet Immediate Needs Arising From the Consequences of Hurricane Katrina, 2005 (P.L. 109–62).

[3] Excludes administrative expenses of the Social Security Administration, which are off-budget.

[4] H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2006, assumed the enactment of emergency supplemental appropriations for fiscal year 2005, in the amount of $81,811 million in budget authority and $32,121 million in outlays, which would be exempt from the enforcement of the budget resolution. Since current level excludes the emergency appropriations in P.L. 109–13 (see footnote 2), the amounts specified in the budget resolution have also been reduced for purposes of comparison.

Source: Congressional Budget Office.

FARM AID'S 20TH ANNUAL CONCERT

Mr. HARKIN. Mr. President, on Sunday, September 18, just outside of Chicago, Farm Aid staged its 20th annual concert, playing to a sell-out crowd of more than 28,000. Over the years, Farm Aid has raised more than $27 million to fund national, State and local efforts of various kinds to support and strengthen family farm agriculture and rural communities.

The first Farm Aid concert, on September 22, 1985, was organized by a great American who is richly acquainted with the heart and soul of rural America, Willie Nelson. Originally conceived as a way to raise money to help struggling farm families, the first Farm Aid concert also served to highlight the crucial challenges facing family farms and rural communities.

I have vivid memories of that first Farm Aid concert 20 years ago. I remember getting on the train in Carroll, IA, west of Ames, and riding it all the way to Champaign, IL. That was a trainload of people with high hopes and good spirits. But more important, that train was packed with people who understood firsthand the severity of the farm crisis, and who had a deep, passionate commitment to doing something about it. We spent the train trip discussing ideas for turning the situation around, and by the time we arrived in Champaign, we were fired up to push for big changes.

The mid-1980s were a tumultuous time for rural America. In my own State of Iowa, the economic devastation experienced by family farms and small towns was the worst since the Great Depression. As in the 1930s, the human toll of the crisis was poignant and profound. There were many tens of thousands of people who had spent their lives working hard and playing by the rules, but who were losing their farms, their homes and their livelihoods. That affected me personally, as it did most Iowans and people all across America. And like so many others, I was convinced that we needed new ideas and better policies to save America's family farm agriculture and to revitalize our rural economy.

The first Farm Aid concert drew a tremendous amount of national and even international attention to the crisis in rural America. Farm Aid opened people's eyes to the plight of family farms and small towns. It helped farm families directly and it led to policy changes that have made a positive difference.

Family farms and rural communities are still struggling, and so Farm Aid is as important as ever. And in that same spirit, this year's concert highlighted and helped support a special Farm Aid Family Farm Disaster Fund to provide aid to farm families and rural communities that have been devastated by hurricanes across the gulf region, drought in the Midwest or other natural disasters elsewhere. In the tremendous response to the hurricanes, we have seen the same outpouring of concern and compassion by the American people that has supported Farm Aid over the years.

I salute Willie Nelson, John Mellencamp, Neil Young, Dave Matthews and all the others who have devoted themselves to making Farm Aid a success in helping family farms and rural communities throughout the years—including David Senter, Carolyn Mugar and Corky Jones. I wish them and Farm Aid many more successful years supporting family farms and rural communities and raising awareness of their vital importance to us all.

EMERGENCY COMMUNICATIONS

Mr. KERRY. Mr. President, today the Commerce Committee was scheduled to conduct an afternoon hearing regarding emergency communications. I regret that the hearing was postponed, and I hope and expect that the session will be quickly rescheduled. The events of September 11, 2001, uncovered a fundamental weakness in our communications system. We learned the hard way that in a time of crisis—when communication is most important—our first responders could not communicate at a basic level. Now, some 4 years later, Katrina has showed we have not fixed the problem. One of the biggest problem facing police, fire and first responders in the gulf coast was that the communications system was knocked off line. It was remarkable to watch as the television news crews had better luck communicating than our first responders. As the disaster unfolded, emergency officials repeatedly cited communications failures as a major obstacle to the disaster response effort.

So despite the good work of the 9/11 Commission and the hard work of national and local officials, we find that the system is not hardened against terror or nature, and we remain dangerously vulnerable. Like all of my colleagues, I want a system that will work when we need it most. Frankly, there is not much good in an emergency communications system that doesn't work in emergencies. We must push ahead with the DTV transition so that new spectrum is made available and new technologies can come online. The Federal Government must commit the time, resources, training, technology, and leadership to create a national and truly interoperable communications system. It is a national job to ensure capability across regions, among rescues units, and up and down chain of command.

I also believe we should deploy a redundant emergency communications system that, with a flick of switch, will operate during times of crisis when the main system is disabled. I have introduced a bill to address this immediate need. S. 1703 requires experts at the Department of Homeland Security and the Federal Communications Commission evaluate the feasibility and cost of deploying an emergency communications system. The agencies will evaluate all reasonable options, including

satellites, wireless and terrestrial-based systems. They will evaluate all available public and private resources that could provide such a system and submit a report to Congress detailing the findings.

The DHS is then authorized to request appropriations to implement the system. Congress would then be in position to put in place whatever programs and funding are needed to get the job done. We have myriad day-to-day communications issues to address. I am mindful of these needs. As was pointed out by a witness in the Commerce Committee's morning hearing, we have major problems with ''operability'' within a particular agency that must be addressed before we can seriously tackle ''interoperability''—communicating across jurisdictions and among different agencies.

However, we must also take steps to address an immediate crisis. We must ensure that we can respond in emergency situations with an eye toward building a reliable, redundant system for the long term. It is my hope that the Congress will consider this proposal, and other relevant proposals, before we recess for the year. I look forward to working with my colleagues in that regard.

PRESIDENT URIBE'S APPOINTMENT OF A CABINET-LEVEL ADVISOR ON AFRO-COLOMBIAN ISSUES

Mr. OBAMA. Mr. President, I rise today to call attention to an important step towards progress for Afro-descendants in Colombia, and an important opportunity for Afro-descendants throughout Latin America.

I wish to commend the work of my colleagues in the Congressional Black Caucus on this issue, as well as the tireless efforts of nongovernmental organizations and religious groups both here and in Colombia.

This August, President Uribe of Colombia created a cabinet-level position on Afro-Colombian issues, and appointed an Afro-Colombian to fill the post. The creation of this position is especially significant because it signals both a recognition of the severity of the situation of Afro-descendants in Colombia and a willingness to address these inequalities.

At the same time, many of us recognize that this is only a first step and much more needs to be done.

I will be monitoring the progress of this office very closely in the coming months, and I especially look forward to the development of President Uribe's Committee on Civil Rights and Sustainable Development for Afro-Colombians.

It is my hope that this institution will have the resources and mandate to do an effective job of bringing some measure of equality and justice to a marginalized segment of Colombian society. It is my hope that this will encourage other governments in Latin America to consider taking additional measures to address racial discrimination, as well as economic and social marginalization, faced by Afro-descendants in their countries.

In the wake of Hurricane Katrina, our own country is being awakened to a great divide in our midst. As we struggle with troubling intersections of race and class, and how we have failed the most vulnerable members of our population, I hope we will be able to take a moment to reflect on similar struggles in places such as Colombia, Ecuador, Brazil and Venezuela.

While I realize that Colombia continues to face many challenges—from human rights to narco-trafficking—I wanted to bring some good news, that is often overlooked, about the country of Colombia to the attention of the Senate. I applaud these efforts.

TRIBUTE TO SIMON WIESENTHAL

Mr. CORZINE. Mr. President, I rise today to pay tribute to Simon Wiesenthal, the moral conscience of our generation and of generations to come. I was proud to cosponsor the resolution authored by my friend and colleague, Senator SCHUMER, that passed the Senate by unanimous consent, commemorating Mr. Wiesenthal's life and accomplishments.

Mr. Wiesenthal died on Tuesday, September 20, 2005, at the age of 96. After surviving internment in 12 Nazi concentration camps, Mr. Wiesenthal took on a mission for the world—to ensure that through the crucible of the Holocaust we acknowledge and understand our common humanity.

Simon Wiesenthal's name has become synonymous with the term ''Nazi hunter,'' the man responsible for bringing more than 1,100 Holocaust collaborators to justice. But as the noted author, Robert Lifton, has said, what defined Wiesenthal ''wasn't so much his identifying particular Nazi criminals, . . . it was his insisting on an attitude of confronting what happened and constantly keeping what happened in mind and doing so at times when a lot of people would have preferred to forget.''

Simon Wiesenthal constantly made sure that we understood the Holocaust was not a discrete event relegated to a particular time and place, but that it was, and is, emblematic of the depths to which humanity can descend and the heights to which it can soar.

Simon Wiesenthal survived the Nazi death camps through what some might call luck, some might call random acts of kindness or just indifference, or what some might call miracles. Whatever the reason, fathomable or unfathomable, Wiesenthal became our guide on a painful and essential journey through memory and consciousness, an examination of what we are and what we should be. That is a journey that is never-ending by definition—it was not for him and should not be for us.

He was a detective searching for criminals, and he was a philosopher seeking after truth and justice. He found and helped find many criminals. His search for truth and justice is passed on to us and to our children. It lives on in the Simon Wiesenthal Center in Los Angeles, home to the Museum of Tolerance. It lives on in our assumption of responsibility.

Mr. Wiesenthal died in his sleep at his home in Vienna, Austria, his body at peace, his spirit among us.

THE PONTIFICAL VISIT OF HIS HOLINESS ARAM I

Mrs. BOXER. Mr. President, I take this opportunity to recognize the Pontifical Visit of His Holiness Aram I, Catholicos of the Great House of Cilicia, to my home State of California in October, 2005.

The Catholicos represents the Great House of Cilicia, an historic Armenian religious center established in 1441. The Catholicosate was relocated to Antelias, Lebanon following the atrocities of the Armenian Genocide, which included destruction of houses of worship in Cilicia. Today, His Holiness Aram I represents hundreds of thousands of Armenian American Christians, as well as Armenians across the Near East. The Armenian faith is 1,700 years old and it is significant that Armenia was the first nation to officially adopt Christianity as a state religion in 301 AD.

The Catholicos' spiritual, cultural and educational influence extends well beyond the Armenian people. His Holiness Aram I, who holds a Master of Divinity, a Master of Sacred Theology, a Ph.D., and several honorary degrees, has authored numerous articles and texts in Armenian, English and French, some of which have been translated into other languages. The Catholicos has worked to strengthen interfaith relations between Christian and Muslim communities. In 1974, the Catholicos was one of the founding members of the Middle East Council of Churches.

His Holiness Aram I was elected as Moderator of the Central and Executive Committees of the World Council of Churches, WCC, a renowned organization which represents over 400 million Christians worldwide. The WCC brings together over 340 churches and denominations in more than 100 countries throughout the world. The Catholicos is the first Orthodox, first Middle Easterner and youngest person to hold this position and his unanimous re-election as Moderator in 1998 was exceptional in the history of the WCC.

During his trip to California, which is titled ''Towards the Light of Knowledge,'' the Catholicos will visit churches as well as educational and cultural institutions in Los Angeles, Fresno and San Francisco. This momentous visit was initiated by His Eminence, Archbishop Moushegh Mardirossian of the

Western Prelacy of the Armenian Apostolic Church of America to commemorate the 90th Anniversary of the Armenian Genocide and the 1600th Anniversary of the creation of the Armenian alphabet.

I am honored to recognize this milestone visit to California by a distinguished Armenian and world leader. I wish both the Catholicos and the Armenian community in California a renewed sense of purpose and inspiration from this visit.

ALPHA KAPPA ALPHA SORORITY, INC.

Mrs. CLINTON. Mr. President, I am proud to pay tribute to Alpha Kappa Alpha Sorority, Incorporated, America's first Greek-letter organization established by black college women.

On Thursday, September 22, 2005, I had the pleasure of spending time with nearly one hundred members of this remarkable organization, including Representative Sheila Jackson Lee and AKA's International President, Linda White. I have long been aware of the rich history and tremendous contributions made to our Nation by Alpha Kappa Alpha and the other eight Black Greek Letter Organizations and I was particularly delighted to participate in AKA's event entitled ''The Spirit, Let's Share it and Connect,'' which focused on the many ways in which AKA contributes to our communities.

In 1908, Alpha Kappa Alpha Sorority was founded at Howard University in Washington, DC, by Ethel Hedgeman Lyle, who envisioned AKA as a source of social and intellectual enrichment for its members. Over the past century, AKA has evolved into a nationwide organization of college-trained women working to improve the socioeconomic conditions in their cities, States and countries throughout the world.

Alpha Kappa Alpha's achievements are the result of volunteer service that captures the organization's core values. Each year, a National Program theme is constructed around one of AKA's five ''targets'': Education, the Black Family, Health, Economics and the Arts. This year's target is Education, with the Signature Program of the administration being ''The Ivy Reading AKAdemy,'' a reading initiative focused on early learning and mastery of basic reading skills by the end of third grade. All AKA chapters are required to implement an after school reading initiative for students in kindergarten through third grade. Across the United States there are nine such federally funded demonstration sites in low-performing, economically deprived, innercity schools.

AKA has made several significant contributions to the black community and to American society over all over the past century. These efforts have included a wide range of issues, including among them election reform and health care and education initiatives. For example, in 1983 AKA launched a massive registration drive designed to increase black voter registration by 25 percent by the November 1984 elections. In 1999, AKA was awarded a $50,000 grant from the United States Department of Transportation to promote increased seatbelt use and vehicle passenger safety in the minority community. That same year, AKA established a funded partnership with the United States Department of Health and Human Services to promote women's health. Just 4 years ago, AKA raised over $25,000 for sickle cell anemia. In 2002, AKA built and dedicated nine AKAdemies in South Africa and contributed $25,000 to the National Council of Negro Women's Mortgage Liquidation Fund.

In addition to advancing these services, AKA maintains a focus on improving the quality of life for its members. AKA cultivates and encourages high scholastic and ethical standards; promotes unity and friendship among college women; alleviates problems facing girls and women; maintains a progressive interest in college life and serves over 170,000 women in the United States, the Caribbean, Europe, and Africa. Its distinguished alumni include national civic leaders such as astronaut Mae Jamison, author Toni Morrison, poet Maya Angelou, Coretta Scott King, Rosa Parks, and the late Judge Constance Baker Motley. I was deeply saddened to learn of the death of Judge Constance Baker Motley earlier this week. A champion of civil rights and a giant of the legal profession, she will be remembered for her lasting contributions to American jurisprudence and to our larger society. I am certain that the women of AKA join me in mourning her passing, grateful and heartened by the fact that the civil rights movement existed in large part because of the efforts of their friend in sisterhood.

I am privileged and proud to have a special bond with the remarkable women of Alpha Kappa Alpha, Incorporated and am honored to share with my colleagues the many reasons we should all admire and thank the members of this organization for their long-lasting and unwavering commitment to improving the lives of so many.

40TH ANNIVERSARY OF THE NATIONAL FOUNDATION FOR THE ARTS AND HUMANITIES

Mr. KENNEDY. Mr. President, 40 years ago today, President Lyndon Johnson signed landmark legislation into law creating the Foundation on the Arts and Humanities. I was privileged to be one of the cosponsors of this measure, which created the National Endowment for the Arts and the National Endowment for the Humanities and bring a new nationwide focus to the creative community across America in the fields of literature and history, the visual arts, and the performing arts.

Throughout these four decades, the Endowments have provided impressive leadership in enhancing the cultural life of the Nation. The budget for the two agencies is relatively small, but they have distributed Federal grants to a wide range of deserving educational and cultural organizations in communities in all parts of the country.

The best of our cultural heritage has broad appeal to peoples everywhere. The scholarship, the history, and the arts of America are admired around the world. Each generation of scholars and artists has much to share with the rest of the world, and with the generations to come as well. The important role of the Endowments is to support the museums, the galleries, and the theaters in our communities, and assist them in presenting these artistic achievements so that audiences, students and scholars can study them, and learn from them.

Down through the ages, the arts have inspired generations after generations with their beauty, tolerance and understanding. They enable individuals to reach beyond their own experience and know something of other peoples and other cultures. In this shrinking world, it is even more important to respect our neighbors, and build cultural bridges to reach out to one another in our shared world. The arts and humanities offer indispensable opportunities to achieve this important goal.

The Endowments help disseminate the creative work being done at the local level. In Massachusetts, we are privileged to have an extraordinary range of cultural institutions that document the story of our Commonwealth from its earliest days to the present. We are very proud of the cultural landmarks that tell of our history, so that future generations too will understand the challenges that faced the Pilgrim settlers in Plymouth, the struggle for independence that began in Boston Harbor and at Concord Bridge, the harrowing era of one stop on the Underground Railroad, the rugged life in the fishing community of New Bedford, and the early years of the China trade.

So, too, in every other State in our Nation, the story is told of discovery, development and achievement, the continuing story of the American journey.

The important task of the Endowments is to honor and preserve this legacy. Over the past four decades, they have compiled an impressive record of vital support for both the arts and humanities. The Arts Endowment has funded major arts exhibitions, dance tours by large national companies, and performances by smaller regional companies. The Humanities Endowment has provided vital research and educational support in colleges and universities across the country. It has supported a national effort to preserve important documents, brittle books and important artifacts. Its public programs have underwritten brilliant documentaries on topics ranging from the story of the Civil War to the story of baseball.

These two great Endowments have amply fulfilled the early hope that

they could improve the quality of the arts and humanities and expand their reach, and we in Congress are very proud of all they have accomplished.

There have been times of controversy and criticism as well, but the Endowments have clearly earned the bipartisan respect and support that they now enjoy. The arts and humanities are an essential part in the life of the Nation and in all of our lives, and the Endowment's mission is to ensure that they always will be.

I commend the current chairmen of the Humanities Endowment and the Arts Endowment, Bruce Cole and Dana Gioia. They follow in impressive footsteps of their illustrious predecessors, through Republican and Democratic administrations alike. We are grateful for all that they and their outstanding staff members do each day to fulfill their important mission.

It is gratifying on this 40th anniversary of the creation of the National Foundation on the Arts and Humanities to recognize their superb record of achievement, and I congratulate all those who have done so much to make it so.

ADDITIONAL STATEMENTS

MASSACHUSETTS BEST COMMUNITY WINNERS

• Mr. KERRY. Mr. President, I am honored to recognize three outstanding Massachusetts communities, each of which has been chosen by America's Promise as one of the ''100 Best Communities for Young People'' in this Nation. The communities of Barnstable County, Brockton, and Cambridge, have demonstrated outstanding civic leadership for our children. Community leaders, businesses, teachers and Government officials work together in these communities to give their children both the tools and the opportunities they need to succeed. I am very proud that such exemplary communities can be found in my home State.

Barnstable has an impressive record of civic involvement. Not only are community leaders active in the lives of their youth, but they encourage their children to participate in community activities. Over 40 percent of the households in Barnstable have young people participating in community service, and this is, in large part, a reflection of the extensive programs in area high schools such as Junior State of America, Mentoring, Peer Leaders, and National Honor Society. In the Barnstable middle school communities, initiatives such as Schools for Success, which works with underachieving youth in the Barnstable Middle School to improve academic achievement and social skills, have evolved and flourished. The community involvement extends outside of the school systems as well with organizations such as Children's Cove, a program run by the Barnstable County district attorney's office, the State department of social service, and Cape Cod Health Care, together with other community partners to assist children who have experienced sexual abuse.

In Brockton, successful community organizations work tirelessly to provide their children with every opportunity to learn, grow, and remain both physically and mentally healthy. The Brockton After Dark program organizes several different activities each weeknight at seven locations across the city, including basketball games, open swim time, tennis, soccer, performing arts, and open mike nights. By keeping vulnerable youth off the streets, the program contributed to a significant drop in crime. The Target Outreach initiative directs at-risk youth to positive alternatives offered by the Boys & Girls Clubs by recruiting children to club activities as a diversion to gang activities. In its first 2 years, the program far surpassed its enrollment goal. In 2004–2005, 179 members of the Brockton High School Key Club, a partner in Brockton's Promise, completed 3,800 hours of community service in Brockton. Together, the mayor, the district attorney and the chief of police have organized successful Kids Road Races, youth field trips to the local Brockton Rox baseball game, and much more.

The city of Cambridge has also illustrated its dedication to improving the quality of life for its youth and their families. In 1997, Cambridge introduced the Agenda for Children, which consisted of more than 50 meetings with over 600 community members to bring the city's health, human services, schools, police, and library departments together with nonprofit providers and the Cambridge Community Foundation to help improve the quality of life for its youth. In addition, the Neighborhood Service Project provides youth with an opportunity to work with their peers targeting a variety of issues from teen pregnancy to multiculturalism. The Cambridge Prevention Coalition, partnering with other organizations, has developed a Peer Leadership Program which creates teen leaders mobilized around substance abuse issues. All in all, Cambridge has over 150 programs within the city limits attending to the needs and services of youth and their families.

What I have given here is just a small sampling of the incredible programs occurring in the Commonwealth. I applaud these three cities on their recognition by America's Promise; encourage them to continue their great work and I hope other communities will follow their example.•

IN REMEMBRANCE OF MILDRED LIGHT ALDRIDGE

• Mr. LEVIN. Mr. President, I would like to take this opportunity to pay tribute to Mildred Light Aldridge, an educator and administrator for many years and the wife of the late Reverend Dr. Avery Aldridge, who passed away at the age of 77 on September 22, 2005. She was an important member of the Flint community, and she will be sorely missed by many.

Mildred Light Aldridge was born in 1928 in Earle, AR. She received her bachelor's of art degree in elementary education from the University of Michigan-Flint and her master's degree in guidance and counseling from Eastern Michigan University. She taught on the elementary school level and worked as a guidance counselor in several middle schools before serving as principal of the Doyle Ryder Community School until her retirement in 1986. After retirement, she remained active by founding and serving as the director of the Eagle's Nest Child Care and Development Center. She also served for the past 23 years as an instructor of the adult ladies fellowship class at Foss Avenue Baptist Church.

Mildred Light Aldridge participated in various civic and community organizations, including the Flint Chapters of the NAACP and the Urban League, the Visually Impaired Center of Flint, and on the advisory board of the Mott Community College Foundation. She was also affiliated with the National Association of Elementary School Principals and the Flint Congress of School Administrators. In addition, Dr. Aldridge held honorary doctorate degrees from Arkansas Baptist College and Selma University.

Dr. Aldridge is mourned by many in the Flint community and is survived by her two children, Derrick Aldridge and Karen Aldridge-Eason, and by her 10 grandchildren. This is, indeed, a great loss to all who knew her, and I know my colleagues will join me in paying tribute to the life of Mildred L. Aldridge.•

TRIBUTE TO JOHN DEERING AND HIS ''TESTAMENT'' SCULPTURE

• Mr. PRYOR. Mr. President, nearly half a century ago, Arkansas experienced one of its darkest moments. As nine African-American students fought to integrate Central High School, they were accosted by students, threatened by parents and forsaken by local leaders. It took an intervention by President Dwight Eisenhower to bring desegregation to this public school.

But in the 48 years since this event my State has seen brighter days, most recently on August 30, 2005, when I was proud to be present for the unveiling of ''Testament,'' a sculpture of the Little Rock Nine depicting the nine brave students on their journey to claim an equal education.

''Testament'' is a tribute by John Deering, one of Little Rock's own, to those students and the courage they demonstrated that day. The life-sized sculpture depicts the nine students as they were in 1957: Equally brave, scared, determined. It is the largest bronze statue in Arkansas and the first

monument honoring the civil rights movement on the grounds of a Southern State capitol. During the 40th anniversary of the desegregation, John came up with the idea for the sculpture. With approval from the Little Rock Nine Foundation, John created the work with his wife Kathy and studio partner Steve Scallion. The sculpture has been 7 years in the making and now stands proudly in Little Rock.

I would like to recognize John for this sculpture and his contributions to journalism and the arts. As the editorial cartoonist for the Arkansas Democrat-Gazette, John has earned numerous local and national accolades. He has been recognized by the Arkansas Press Association with the Best Editorial Cartoonist Award seven times in his career and in 1996 he won the illustrious Berryman Award from the National Press Foundation. His editorial cartoons are nationally syndicated, as is his comic strip ''Strange Brew,'' allowing readers throughout the country to share in his humor.

But make no mistake, John is serious about his cartoons, and the artistry is as important to him as the jokes. His dedication to artistry has translated to other mediums, including painting and sculpture. John has works displayed throughout the country. ''Testament'' is not the first monument he has sculpted for Arkansas. In 1987, John created a life-size sculpture of an American soldier for the Arkansas Vietnam Veterans Memorial, which I consider both poignant and powerful.

When the ''Testament'' sculpture was unveiled, the Little Rock Nine once again stood together in solidarity. An emotional moment for those brave men and women, it was also a moving event for John as 7 years of private work was finally put on public display. As this sculpture stands on Arkansas' capitol grounds, it serves as a testament to the Little Rock Nine, as well as Arkansas' past and future. I applaud John for his valuable artistic contribution to Arkansas and the nation and I hope that this statue will serve as a lasting reminder of the difficulties and triumphs of the civil rights movement for generations to come.●

TRIBUTE TO JOHN H. JOHNSON

● Mr. PRYOR. Mr. President, today, I pay tribute to the life and legacy of John H. Johnson. John was a pioneer whose monumental works in publishing and generous acts of philanthropy have had profound influence on the lives of millions, both inside and outside Arkansas.

John's life story is one we can all learn from and admire. Raising himself up from poverty to the top of the business world, he is proof that hard work and determination can create success. Born the grandson of slaves in a one-room house in Arkansas City in 1918, John went on to become the first African American to be named to Forbes' list of the 400 wealthiest Americans.

The founder, publisher and chairman of Johnson Publishing company—the largest African-American owned publishing company in the world—John's magazines, Ebony and Jet, are the number one African-American magazine and newsweekly respectively. Ebony currently has a circulation of 1.7 million and a monthly readership of over 11 million, while Jet has a readership of over 8 million weekly, and both publications continue to lead the way in African-American journalism. Linda Johnson Rice, John's daughter, currently serves as President and CEO of her father's company and I wish her the best in building on her father's success.

Awarded the Presidential Medal of Freedom in 1996—the highest honor this Nation bestows on civilians—John's life was full of accomplishments and accolades. John was recognized with the Magazine Publisher's Association publisher of the year award, the Black Journalists' Lifetime Achievement Award and the Wall Street Journal/Dow Jones Entrepreneurial Excellence Award. He has been inducted into the Advertising Hall of Fame, the National Business Hall of Fame and, in 2001, he became the first African American inducted into the Arkansas Business Hall of Fame. During his life, John was also appointed to various posts by Presidents Kennedy, Johnson and Nixon and served on the boards of corporations ranging from Dillard Department Stores to the Chrysler Corporation to Twentieth Century Fox Film.

But John's influence extends beyond the business world. He helped change race relations in this country, both with his publications and activism. In 1955, John made history when he published the unedited photographs of the mutilated body of Emmett Till, the 14-year-old murder victim who was viciously beaten, shot and then drowned in Mississippi for allegedly whistling at a white woman. The pictures, intended to show the reality of the Jim Crow South, helped spark the Civil Rights Movement.

As far as John went in life, he was not one to forget his roots. Raised in poverty in Arkansas by his mother, John has spent much of life giving back to his community and state. John's dedication to education and improving the lives of children has been one of his greatest passions and the results of his work will be felt in Arkansas for decades to come. In May, Arkansas City and the University of Arkansas at Pine Bluff dedicated the John H. Johnson Cultural and Educational Museum. The museum contains memorabilia, printed materials and videos about John's life, which will serve as an inspiration to our children as they strive to succeed. There are also plans in the works for the John H. Johnson Delta Cultural and Entrepreneurial Learning Center in Arkansas City, as well as a related academic complex in Pine Bluff. These facilities will undoubtedly be an asset to the university and provide valuable education opportunities for the students of Arkansas.

John H. Johnson's legacy will live on and continue to influence the State of Arkansas, and the Nation, for many years. Through his publications, activism and generosity, John has left an indelible mark on society. He was a trailblazer and his contributions to our Nation are immeasurable. I join all of Arkansas in saluting the memory of John H. Johnson.●

HONORING JUDGE CONSTANCE BAKER MOTLEY

● Mr. SALAZAR. Mr. President, I rise to honor and celebrate the remarkable life and legacy of Judge Constance Baker Motley, a trailblazer for civil rights who dedicated her life to advancing the American values of justice and equality for all.

Judge Motley was born and raised in New Haven, CT at a time when women and minorities were denied the right to an equal education, and employment, housing and voting rights. Despite remarkable odds, Judge Motley decided at the age of 15 that she would be an attorney. Although she was discouraged by many, Judge Motley remarked that she was ''the kind of person who would not be put down.''

Judge Motley graduated from Columbia Law School in 1946 and joined the legal staff of the NAACP Legal Defense and Education Fund, Inc. It was there that for nearly 20 years, Judge Motley orchestrated the legal challenge to the ''separate but equal doctrine,'' culminating in the Supreme Court victory in Brown v. Board of Education that guaranteed equal educational opportunities for all Americans. In addition to the seminal decision in Brown, Judge Motley argued the 1957 school desegregation case in Little Rock, AR that led President Eisenhower to call in federal troops to protect nine black students at Central High School. During Judge Motley's tenure at the NAACP, she successfully argued numerous cases desegregating restaurants and recreational facilities in Southern cities and cases overturning the convictions of the Reverend Fred Shuttlesworth and countless others who engaged in nonviolent sit-ins and protests of discriminatory practices.

In 1965, Judge Motley became the first woman to be elected president of the Borough of Manhattan where she continued to advocate for the rights of women, minorities and the poor. In 1966, President Johnson appointed Judge Motley to the United States District Court for the Southern District of New York. With her appointment, Judge Motley became the first African-American woman appointed to the Federal judiciary, where she served until 1986 when she assumed senior status.

Judge Motley's dedication and commitment to justice and equality changed our Nation for the better and

paved the way for women, minorities and the poor to enjoy the rights and privileges guaranteed by our constitution. Judge Motley stood tall in the face of great adversary for what was right. We all stand taller because of her life and because she was the kind of person who would not be put down.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

NOTIFICATION REGARDING THE PROPOSED USE OF PUBLIC SAFETY FUNDS PROVIDED TO THE DISTRICT OF COLUMBIA PURSUANT TO TITLE I OF THE DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 2005, PUBLIC LAW 108–335—PM 24

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Appropriations:

To the Congress of the United States:

Consistent with title I of the District of Columbia Appropriations Act, 2005, Public Law 108–335, I am notifying the Congress of the proposed use of $10,151,538 provided in title I under the heading ''Federal Payment for Emergency Planning and Security Costs in the District of Columbia.'' This will reimburse the District for the costs of public safety expenses related to security events and responses to terrorist threats.

The details of this action are set forth in the enclosed letter from the Director of the Office of Management and Budget.

GEORGE W. BUSH,

THE WHITE HOUSE, *September 29, 2005*.

MESSAGES FROM THE HOUSE

At 9:37 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, without amendment.

S. 1752. An act to amend the United States Grain Standards Act to reauthorize that Act.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

H.R. 3864. An act to assist individuals with disabilities affected by Hurricane Katrina or Rita through vocational rehabilitation services.

The enrolled bill was signed subsequently by the President pro tempore (Mr. STEVENS).

The following enrolled bills, previously signed by the Speaker of the House, were signed yesterday, September 28, 2005, by the President pro tempore (Mr. STEVENS):

H.R. 2132. An act to extend the waiver authority of the Secretary of Education with respect to student financial assistance during a war or other military operation or national emergency.

H.R. 3200. An act to amend title 38, United States Code, to enhance the Servicemembers' Group Life Insurance program, and for other purposes.

H.R. 3667. An act to designate the facility of the United States Postal Service located at 200 South Barrington Street in Los Angeles, California, as the ''Karl Malden Station''.

H.R. 3767. An act to designate the facility of the United States Postal Service located at 2600 Oak Street in St. Charles, Illinois, as the ''Jacob L. Frazier Post Office Building''.

At 6:11 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 1752. An act to amend the United States Grain Standards Act to reauthorize that Act.

At 7:19 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 joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 68. Joint resolution making continuing appropriations for the fiscal year 2006, and for other purposes.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 1802. A bill to provide for appropriate waivers, suspensions, or exemptions from provisions of title I of the Employee Retirement Income Security Act of 1974 with respect to individual account plans affected by Hurricane Katrina or Rita.

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–4039. A communication from the Assistant Administrator and Chief Information Officer, Office of Environmental Information, Environmental Protection Agency, transmitting, pursuant to law, a report relative to reducing the burden and streamlining program operations of the Toxic Release Inventory (TRI) Program; to the Committee on Environment and Public Works.

EC–4040. A communication from the Inspector General, Nuclear Regulatory Commission, transmitting, pursuant to law, the Commission's Fiscal Year 2005 Commercial and Inherently Governmental Activities Inventories; to the Committee on Environment and Public Works.

EC–4041. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; State of Utah; Ogden City Revised Carbon Monoxide Maintenance Plan and Approval of Related Revisions'' (FRL No. 7961–7) received September 18, 2005; to the Committee on Environment and Public Works.

EC–4042. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; State of Missouri, Correction'' (FRL No. 7969–6) received September 18, 2005; to the Committee on Environment and Public Works.

EC–4043. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; New York; Revised Motor Vehicle Emissions Budgets for 1990 and 2007 using MOBILE6'' (FRL No. 7968–1) received September 18, 2005; to the Committee on Environment and Public Works.

EC–4044. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plan; Minnesota'' (FRL No. 7969–7) received September 18, 2005; to the Committee on Environment and Public Works.

EC–4045. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Priorities List for Uncontrolled Hazardous Waste Sites'' (FRL No. 7968–3) received September 18, 2005; to the Committee on Environment and Public Works.

EC–4046. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Tennessee; Redesignation of the Montgomery County, Tennessee Portion of the Clarksville-Hopkinsville 8-Hour Nonattainment Area to Attainment'' (FRL No. 7973–5) received on September 18, 2005; to the Committee on Environment and Public Works.

EC–4047. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Kentucky; Redesignation of the Christian County, Kentucky Portion of the Clarksville-Hopkinsville 8-Hour Ozone Nonattainment Area to Attainment for Ozone'' (FRL No. 7972–9) received on September 18, 2005; to the Committee on Environment and Public Works.

EC–4048. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Designation of Areas for Air Quality Planning Purposes; Illinois; Lake Calumet PM–10 Redesignation and Maintenance Plan'' (FRL No. 7973–2) received on September 18, 2005; to the Committee on Environment and Public Works.

EC–4049. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Designation of Areas for Air Quality Planning Purposes; Illinois; Lyons Township PM–10 Redesignation and Maintenance Plan'' (FRL No. 7972–7) received on September 18, 2005; to the Committee on Environment and Public Works.

EC–4050. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Emission Standards for Hazardous Air Pollutants: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors (Phase I Final Replacement Standards and Phase II)'' (FRL No. 7971–8) received on September 18, 2005; to the Committee on Environment and Public Works.

EC–4051. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Commercial and Industrial Solid Waste Incineration Units'' (FRL No. 7971–9) received on September 18, 2005; to the Committee on Environment and Public Works.

EC–4052. A communication from the Secretary of Commerce, transmitting, the report of a draft bill ''to authorize appropriations to the Secretary of Commerce for the Magnuson-Stevens Fishery Conservation and Management Act for the fiscal years 2006 through 2010''; to the Committee on Commerce, Science, and Transportation.

EC–4053. A communication from the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, a report entitled ''The Status of U.S. Fisheries'' for 2004; to the Committee on Commerce, Science, and Transportation.

EC–4054. A communication from the Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled ''Packaging, Handling, and Transportation'' (RIN2700–AD16) received on September 21, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4055. A communication from the Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled ''Head of Contracting Activity (HCA) Change for NASA Shared Services Center (NSSC)'' (RIN2700–AD13) received on September 21, 2005; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENS, from the Committee on Appropriations:

Report to accompany H.R. 2863, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes (Rept. No. 109–141).

By Mr. ROBERTS, from the Select Committee on Intelligence, without amendment:

S. 1803. An original bill to authorize appropriations for fiscal year 2006 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes (Rept. No. 109–142).

By Ms. COLLINS, from the Committee on Homeland Security and Governmental Affairs, with amendments:

S. 1725. A bill to strengthen Federal leadership, provide grants, enhance outreach and guidance, and provide other support to State and local officials to enhance emergency communications capabilities, to achieve communications interoperability, to foster improved regional collaboration and coordination, to promote more efficient utilization of funding devoted to public safety communications, to promote research and development by both the public and private sectors for first responder communications, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. WARNER for the Committee on Armed Services.

Air Force nominations beginning with Salvatore A. Angellela and ending with Scott E. Wuesthoff, which nominations were received by the Senate and appeared in the Congressional Record on April 4, 2005.

Air Force nomination of Maj. Gen. Stephen R. Lorenz to be Lieutenant General.

Air Force nomination of Maj. Gen. Gary L. North to be Lieutenant General.

Air Force nomination of Lt. Gen. Duncan J. McNabb to be General.

Air Force nomination of Maj. Gen. Frank G. Klotz to be Lieutenant General.

Air Force nomination of Maj. Gen. Douglas M. Fraser to be Lieutenant General.

Air Force nomination of Lt. Gen. John F. Regni to be Lieutenant General.

Air Force nomination of Col. Richard J. Tubb to be Brigadier General.

Army nominations beginning with Brig. Gen. James P. Eggleton and ending with Col. Blake E. Williams, which nominations were received by the Senate and appeared in the Congressional Record on September 6, 2005.

Air Force nomination of Col. James S. Goodwin to be Brigadier General.

Air Force nomination of Col. Roger F. Clements to be Brigadier General.

Air Force nomination of Lt. Gen. Daniel P. Leaf to be Lieutenant General.

Army nomination of Lt. Gen. William S. Wallace to be General.

Army nomination of Col. Philip Volpe to be Brigadier General.

Army nomination of Brig. Gen. Eric B. Schoomaker to be Major General.

Army nomination of Brig. Gen. Michael H. Sumrall to be Major General.

Army nomination of Col. Errol R. Schwartz to be Brigadier General.

Army nomination of Col. James R. Joseph to be Brigadier General.

Army nomination of Maj. Gen. Anne E. Dunwoody to be Lieutenant General.

Army nomination of Col. John E. Cornelius to be Brigadier General.

Mr. WARNER. Mr. President, for the Committee on Armed Services I report favorably the following nomination lists which were printed in the RECORDs on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

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

Air Force nomination of Thomas L. Lutz to be Colonel.

Air Force nomination of Bruce A. Ellis, Jr. to be Lieutenant Colonel.

Air Force nominations beginning with Anselmo Feliciano and ending with Dake S. Vahovich, which nominations were received by the Senate and appeared in the Congressional Record on July 28, 2005.

Air Force nomination of Merrick E. Krause to be Colonel.

Air Force nomination of Anthony E. Barbarisi to be Lieutenant Colonel.

Air Force nominations beginning with Wesley A. Ardt and ending with Russell F. Zakolski, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2005.

Air Force nominations beginning with John M. Allen and ending with Wallace M. Yovetich, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2005.

Air Force nomination of Sean D. McClung to be Major.

Air Force nominations beginning with John M. Andrew and ending with Martin E. France, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Air Force nominations beginning with Christina A. Austinsmith and ending with Andrew S. Williams, which nominations were received by the Senate and appeared in the Congressional Record on September 19, 2005.

Army nominations beginning with Peter D. Guzzetti and ending with Terry M. Larkin, which nominations were received by the Senate and appeared in the Congressional Record on June 6, 2005.

Army nomination of Dennis J. Wing to be Colonel.

Army nominations beginning with Kelvin L. George and ending with Deborah A. Roberts, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2005.

Army nominations beginning with Janice E. Bruno and ending with David P. Sheridan, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2005.

Army nomination of William C. Dickey to be Lieutenant Colonel

Army nomination of Laura T. Wells to be Major.

Army nominations beginning with William R. Everett and ending with Peter D.P. Vint, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Army nominations beginning with Stanley A. Bloustine and ending with Terry D. Neville, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Army nominations beginning with Dario A. Barrato and ending with David L. Jarratt, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Army nominations beginning with Jerry Broman and ending with Franklin E. Tuttle, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Army nominations beginning with David A. Accetta and ending with Peter J. Ziomek, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Army nominations beginning with Lynette M. Arnhart and ending with Daniel E. Zalewski, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Army nominations beginning with David M. Abbinanti and ending with Martin A.

Zybura, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Army nominations beginning with Mary E. Abrams and ending with x1195, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Army nomination of Ronald J. Whalen to be Major.

Army nomination of Vaughn C. Wilhite to be Major.

Army nominations beginning with Cyle R. Richard and ending with Thomas J. Steinbach, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Army nominations beginning with Michael I. Allen and ending with Matthew S. Wysocki, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Army nominations beginning with Jacqueline B. Chen and ending with Moises Soto, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Army nominations beginning with Jean M. Brady and ending with Meshelle A. Taylor, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Army nominations beginning with Roman B. Reyes and ending with Christopher Van Winkle, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Army nomination of Anthony T. Febbo to be Major.

Army nominations beginning with Michael L. Howe and ending with Karl F. Suhr, Jr., which nominations were received by the Senate and appeared in the Congressional Record on September 19, 2005.

Army nominations beginning with Johnathan T. Ball and ending with Daniel M. Krumrei, which nominations were received by the Senate and appeared in the Congressional Record on September 19, 2005.

Army nomination of Danielle N. Bird to be Major.

Army nominations beginning with Ryan J. Allowitz and ending with Mark A. Vance, which nominations were received by the Senate and appeared in the Congressional Record on September 19, 2005.

Army nominations beginning with Eric D. Aguila and ending with Gary H. Wynn, which nominations were received by the Senate and appeared in the Congressional Record on September 19, 2005.

Marine Corps nomination of James R. Waris to be Lieutenant Colonel.

Marine Corps nomination of Richard T. Ostermeyer to be Lieutenant Colonel.

Navy nomination of Jeanene L. Torrance to be Commander.

Navy nominations beginning with James M. Carrasco and ending with Lisa M. Sullivan, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2005.

Navy nominations beginning with Charlie C. Biles and ending with William G. Willis, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2005.

Navy nominations beginning with Steven R. Barstow and ending with Mark S. Winward, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2005.

Navy nominations beginning with Robert P. Anselm and ending with Andrew T. Wilkes, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2005.

Navy nominations beginning with Arturo A. Aseo and ending with Jeffrey D. Thomas, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2005.

Navy nominations beginning with Joel D. Bashore and ending with Meredith L. Yeager, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2005.

Navy nominations beginning with Joseph H. Becht and ending with Calvin Zhao, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2005.

Navy nominations beginning with Maria C. Alberto and ending with Ladawn J. White, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2005.

Navy nominations beginning with Domingo B. Alinio and ending with Christopher R. Zegley, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2005.

Navy nominations beginning with Miguel A. Aguilera, Jr. and ending with Gordon J. Zubrod, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2005.

Navy nominations beginning with James W. Adkisson III and ending with Michael A. Zurich, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2005.

Navy nominations beginning with Jack F. Dalrymple, Jr. and ending with Fred R. Wilhelm III, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Navy nominations beginning with Ohene O. Gyapong and ending with Kevin R. Stephens, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Navy nominations beginning with Bruce W. Beam and ending with Sean P. Yemm, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Navy nominations beginning with Sheila T. Asbury and ending with James V. Walsh, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Navy nominations beginning with Khary A. Bates and ending with Aaron J. Zielinski, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Navy nominations beginning with Thanongdeth T. Chinyavong and ending with William E. Wren, Jr., which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Navy nominations beginning with Richard S. Ardolino and ending with Benjamin D. Zittere, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Navy nominations beginning with Jamie W. Achee and ending with Holly A. Yudisky, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Navy nominations beginning with Brian M. Aker and ending with Ronald E. Yun, Jr., which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Navy nominations beginning with David L. Aamodt and ending with Thomas A. Zdunczyk, which nominations were received by the Senate and appeared in the Congressional Record on September 15, 2005.

Navy nominations beginning with Martin C. Holland and ending with John M. Woo, which nominations were received by the Senate and appeared in the Congressional Record on September 19, 2005.

By Mr. SHELBY for the Committee on Banking, Housing, and Urban Affairs.

*Kim Kendrick, of the District of Columbia, to be an Assistant Secretary of Housing and Urban Development.

*Keith A. Nelson, of Texas, to be an Assistant Secretary of Housing and Urban Development.

*Darlene F. Williams, of Texas, to be an Assistant Secretary of Housing and Urban Development.

*Keith E. Gottfried, of California, to be General Counsel of the Department of Housing and Urban Development.

*David H. McCormick, of Pennsylvania, to be Under Secretary of Commerce for Export Administration.

*Franklin L. Lavin, of Ohio, to be Under Secretary of Commerce for International Trade.

*Israel Hernandez, of Texas, to be Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Service.

*Darryl W. Jackson, of the District of Columbia, to be an Assistant Secretary of Commerce.

*Emil W. Henry, Jr., of New York, to be an Assistant Secretary of the Treasury.

*Patrick M. O'Brien, of Minnesota, to be Assistant Secretary for Terrorist Financing, Department of the Treasury.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(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. SPECTER (for himself, Mr. LEAHY, Mrs. FEINSTEIN, and Mr. FEINGOLD):

S. 1789. A bill to prevent and mitigate identity theft, to ensure privacy, to provide notice of security breaches, and to enhance criminal penalties, law enforcement assistance, and other protections against security breaches, fraudulent access, and misuse of personally identifiable information; to the Committee on the Judiciary.

By Mr. LEVIN:

S. 1790. A bill for the relief of Mr. Anton Dodaj, Mrs. Gjyljana Dodaj, Franc Dodaj, and Kristjan Dodaj; to the Committee on the Judiciary.

By Mr. SMITH (for himself and Mrs. LINCOLN):

S. 1791. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for qualified timber gains; to the Committee on Finance.

By Mr. LUGAR (for himself and Mr. BAYH):

S. 1792. A bill to designate the facility of the United States Postal Service located at 205 West Washington Street in Knox, Indiana, as the ''Grant W. Green Post Office Building''; to the Committee on Homeland Security and Governmental Affairs.

By Mr. BINGAMAN (for himself, Mr. SPECTER, Mr. NELSON of Nebraska, Mr. HARKIN, and Mr. ROCKEFELLER):

S. 1793. A bill to extend certain apportionments to primary airports; to the Committee on Commerce, Science, and Transportation.

By Mr. DURBIN (for himself and Mr. OBAMA):

S. 1794. A bill to establish a Strategic Gasoline and Fuel Reserve; to the Committee on Energy and Natural Resources.

By Mr. JOHNSON (for himself, Ms. CANTWELL, Mr. LEAHY, Mr. CORZINE, Mrs. MURRAY, Mr. SALAZAR, Mr. REED, and Ms. MIKULSKI):

S. 1795. A bill to amend the Social Security Act to protect Social Security cost-of-living adjustments (COLA); to the Committee on Finance.

By Mrs. MURRAY (for herself, Mr. LEAHY, Mr. DAYTON, Mr. DODD, and Mr. CORZINE):

S. 1796. A bill to promote the economic security and safety of victims of domestic violence, dating violence, sexual assault, or stalking, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. INHOFE:

S. 1797. A bill to provide for Congressional authority with respect to certain acquisitions, mergers, and takeovers under the Defense Production Act of 1950; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. CORZINE (for himself, Mr. JOHNSON, Mr. LAUTENBERG, and Ms. STABENOW):

S. 1798. A bill to amend titles XI and XVIII of the Social Security Act to prohibit outbound call telemarketing to individuals eligible to receive benefits under title XVIII of such Act; to the Committee on Finance.

By Ms. MIKULSKI (for herself, Mr. VOINOVICH, Mr. AKAKA, Mr. BIDEN, Mr. DORGAN, Mr. DURBIN, Mr. HARKIN, Mrs. MURRAY, Mr. SARBANES, Mr. SCHUMER, and Mr. WARNER):

S. 1799. A bill to amend title II of the Social Security Act to provide that the reductions in social security benefits which are required in the case of spouses and surviving spouses who are also receiving certain government pensions shall be equal to the amount by which two-thirds of the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds $1,200, adjusted for inflation; to the Committee on Finance.

By Ms. SNOWE (for herself, Mr. ROCKEFELLER, and Mr. BUNNING):

S. 1800. A bill to amend the Internal Revenue Code of 1986 to extend the new markets tax credit; to the Committee on Finance.

By Mr. REED (for himself, Mr. ALLARD, Ms. COLLINS, Mr. SARBANES, Mr. BOND, Mrs. MURRAY, Mr. CHAFEE, Ms. MIKULSKI, Mr. DODD, Mr. AKAKA, Mr. SCHUMER, Mr. CORZINE, Mrs. CLINTON, and Ms. LANDRIEU):

S. 1801. A bill to amend the McKinney-Vento Homeless Assistance Act to reauthorize the Act, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. ENZI:

S. 1802. A bill to provide for appropriate waivers, suspensions, or exemptions from provisions of title I of the Employee Retirement Income Security Act of 1974 with respect to individual account plans affected by Hurricane Katrina or Rita; read the first time.

By Mr. ROBERTS:

S. 1803. An original bill to authorize appropriations for fiscal year 2006 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes; from the Select Committee on Intelligence; to the Committee on Armed Services pursuant to Section 3(b) of S. Res. 400, 94th Congress, as amended by S. Res. 445, 108th Congress, for a period not to exceed 10 days of session.

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. MCCAIN, Mr. HAGEL, Mr. LUGAR, and Mr. BROWNBACK):

S. Res. 260. A resolution calling for free and fair parliamentary elections in the Republic of Azerbaijan; to the Committee on Foreign Relations.

By Mr. KERRY (for himself, Mr. DURBIN, Mr. REID, Mr. OBAMA, Mrs. BOXER, and Mr. JEFFORDS):

S. Res. 261. A resolution expressing the sense of the Senate that the crisis of Hurricane Katrina should not be used to weaken, waive, or roll back Federal public health, environmental, and environmental justice laws and regulations, and for other purposes to the Committee on Environment and Public Works.

By Mr. CRAIG (for himself, Mr. ROCKEFELLER, Mr. HATCH, Mr. BAUCUS, Ms. SNOWE, Mr. BINGAMAN, Mr. CRAPO, Mrs. LINCOLN, Mr. DEWINE, Mr. REED, Mr. ALLEN, Mr. KOHL, Mr. SPECTER, Mr. LEVIN, Mr. VOINOVICH, Mr. BYRD, Mrs. DOLE, Ms. MIKULSKI, Mr. SHELBY, Ms. COLLINS, Mr. SARBANES, Mr. GRAHAM, Mr. REID, Mr. COLEMAN, Ms. STABENOW, Mr. SANTORUM, and Mr. DURBIN):

S. Con. Res. 55. A concurrent resolution expressing the sense of the Congress regarding the conditions for the United States to become a signatory to any multilateral agreement on trade resulting from the World Trade Organization's Doha Development Agenda Round; to the Committee on Finance.

ADDITIONAL COSPONSORS

S. 267

At the request of Mr. CRAIG, the name of the Senator from Virginia (Mr. ALLEN) 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. 347

At the request of Mr. NELSON of Florida, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 347, a bill to amend titles XVIII and XIX of the Social Security Act and title III of the Public Health Service Act to improve access to information about individuals' health care operations and legal rights for care near the end of life, to promote advance care planning and decision-making so that individuals' wishes are known should they become unable to speak for themselves, to engage health care providers in disseminating information about and assisting in the preparation of advance directives, which include living wills and durable powers of attorney for health care, and for other purposes.

S. 559

At the request of Mr. BIDEN, the names of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. 559, a bill to make the protection of vulnerable populations, especially women and children, who are affected by a humanitarian emergency a priority of the United States Government, and for other purposes.

S. 566

At the request of Mr. ROCKEFELLER, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 566, a bill to continue State coverage of medicaid prescription drug coverage to medicare dual eligible beneficiaries for 6 months while still allowing the medicare part D benefit to be implemented as scheduled.

S. 576

At the request of Mr. BYRD, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 576, a bill to restore the prohibition on the commercial sale and slaughter of wild free-roaming horses and burros.

S. 595

At the request of Mr. SANTORUM, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 595, a bill to amend the Internal Revenue Code of 1986 to modify the work opportunity credit and the welfare-to-work credit.

S. 637

At the request of Mr. DURBIN, the name of the Senator from New Mexico (Mr. BINGAMAN) 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. 908

At the request of Mr. MCCONNELL, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 908, a bill to allow Congress, State legislatures, and regulatory agencies to determine appropriate laws, rules, and regulations to address the problems of weight gain, obesity, and health conditions associated with weight gain or obesity.

S. 927

At the request of Mr. CORZINE, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 927, a bill to amend title XVIII of the Social Security Act to expand and improve coverage of mental health services under the medicare program.

S. 1190

At the request of Mr. SALAZAR, the name of the Senator from Ohio (Mr.

DEWINE) was added as a cosponsor of S. 1190, a bill to provide sufficient blind rehabilitation outpatient specialists at medical centers of the Department of Veterans Affairs.

S. 1417

At the request of Mrs. CLINTON, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 1417, a bill to impose tariff-rate quotas on certain casein and milk protein concentrates.

S. 1419

At the request of Mr. LUGAR, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 1419, 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. 1516

At the request of Mr. DEWINE, his name was added as a cosponsor of S. 1516, a bill to reauthorize Amtrak, and for other purposes.

S. 1570

At the request of Mr. ROBERTS, the names of the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from North Carolina (Mr. BURR) were added as cosponsors of S. 1570, a bill to promote employment of individuals with severe disabilities through Federal Government contracting and procurement processes, and for other purposes.

S. 1689

At the request of Mr. KYL, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 1689, a bill to state the policy of the United States on international taxation.

S. 1691

At the request of Mr. CRAIG, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. 1691, a bill to amend selected statutes to clarify existing Federal law as to the treatment of students privately educated at home under State law.

S. 1692

At the request of Mr. DAYTON, his name was added as a cosponsor of S. 1692, a bill to provide disaster assistance to agricultural producers for crop and livestock losses, and for other purposes.

S. 1749

At the request of Mr. KENNEDY, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 1749, a bill to reinstate the application of the wage requirements of the Davis-Bacon Act to Federal contracts in areas affected by Hurricane Katrina.

S. 1770

At the request of Mr. OBAMA, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1770, a bill to amend the Internal Revenue Code of 1986 to provide for advance payment of the earned income tax credit and the child tax credit for 2005 in order to provide needed funds to victims of Hurricane Katrina and to stimulate local economies.

S. 1772

At the request of Mr. INHOFE, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 1772, a bill to streamline the refinery permitting process, and for other purposes.

S. 1779

At the request of Mr. AKAKA, the names of the Senator from Rhode Island (Mr. REED) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 1779, a bill to amend the Humane Methods of Livestock Slaughter Act of 1958 to ensure the humane slaughter of nonambulatory livestock, and for other purposes.

S. 1780

At the request of Mr. SANTORUM, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 1780, a bill to amend the Internal Revenue Code of 1986 to provide incentives for charitable contributions by individuals and businesses, to improve the public disclosure of activities of exempt organizations, and to enhance the ability of low-income Americans to gain financial security by building assets, and for other purposes.

S. 1787

At the request of Mr. VITTER, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1787, a bill to provide bankruptcy relief for victims of natural disasters, and for other purposes.

S.J. RES. 25

At the request of Mr. TALENT, the names of the Senator from South Carolina (Mr. GRAHAM) and the Senator from South Carolina (Mr. DEMINT) were added as cosponsors of S.J. Res. 25, a joint resolution proposing an amendment to the Constitution of the United States to authorize the President to reduce or disapprove any appropriation in any bill presented by Congress.

S. CON. RES. 25

At the request of Mr. TALENT, the name of the Senator from South Carolina (Mr. GRAHAM) was withdrawn as a cosponsor of S. Con. Res. 25, a concurrent resolution expressing the sense of Congress regarding the application of Airbus for launch aid.

S. CON. RES. 53

At the request of Mr. OBAMA, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. Con. Res. 53, a concurrent resolution expressing the sense of Congress that any effort to impose photo identification requirements for voting should be rejected.

S. RES. 256

At the request of Mr. SCHUMER, the names of the Senator from Connecticut (Mr. DODD) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of S. Res. 256, a resolution honoring the life of Sandra Feldman.

AMENDMENT NO. 1534

At the request of Mr. DEWINE, the names of the Senator from Nebraska (Mr. NELSON) and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of amendment No. 1534 intended to be proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SPECTER (for himself, Mr. LEAHY, Mrs. FEINSTEIN, and Mr. FEINGOLD):

S. 1789. A bill to prevent and mitigate identity theft, to ensure privacy to provide notice of security breaches, and to enhance criminal penalties, law enforcement assistance, and other protections against security breaches, fraudulent access, and misuse of personally identifiable information; to the Committee on the Judiciary.

Mr. SPECTER. 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. 1789

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 ''Personal Data Privacy and Security Act of 2005''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Definitions.
TITLE I—ENHANCING PUNISHMENT FOR IDENTITY THEFT AND OTHER VIOLATIONS OF DATA PRIVACY AND SECURITY
Sec. 101. Fraud and related criminal activity in connection with unauthorized access to personally identifiable information.
Sec. 102. Organized criminal activity in connection with unauthorized access to personally identifiable information.
Sec. 103. Concealment of security breaches involving sensitive personally identifiable information.
Sec. 104. Aggravated fraud in connection with computers.
Sec. 105. Review and amendment of Federal sentencing guidelines related to fraudulent access to or misuse of digitized or electronic personally identifiable information.
TITLE II—ASSISTANCE FOR STATE AND LOCAL LAW ENFORCEMENT COMBATING CRIMES RELATED TO FRAUDULENT, UNAUTHORIZED, OR OTHER CRIMINAL USE OF PERSONALLY IDENTIFIABLE INFORMATION
Sec. 201. Grants for State and local enforcement.
Sec. 202. Authorization of appropriations.
TITLE III—DATA BROKERS
Sec. 301. Transparency and accuracy of data collection.

Sec. 302. Enforcement.
Sec. 303. Relation to State laws.
Sec. 304. Effective date.
TITLE IV—PRIVACY AND SECURITY OF PERSONALLY IDENTIFIABLE INFORMATION
Subtitle A—Data Privacy and Security Program
Sec. 401. Purpose and applicability of data privacy and security program.
Sec. 402. Requirements for a personal data privacy and security program.
Sec. 403. Enforcement.
Sec. 404. Relation to State laws.
Subtitle B—Security Breach Notification
Sec. 421. Right to notice of security breach.
Sec. 422. Notice procedures.
Sec. 423. Content of notice.
Sec. 424. Risk assessment and fraud prevention notice exemptions.
Sec. 425. Victim protection assistance.
Sec. 426. Enforcement.
Sec. 427. Relation to State laws.
Sec. 428. Study on securing personally identifiable information in the digital era.
Sec. 429. Reporting on risk assessment exemption.
Sec. 430. Authorization of appropriations.
Sec. 431. Reporting on risk assessment exemption.
Sec. 432. Effective date.
TITLE V—GOVERNMENT ACCESS TO AND USE OF COMMERCIAL DATA
Sec. 501. General Services Administration review of contracts.
Sec. 502. Requirement to audit information security practices of contractors and third party business entities.
Sec. 503. Privacy impact assessment of government use of commercial information services containing personally identifiable information.
Sec. 504. Implementation of Chief Privacy Officer requirements.

SEC. 2. FINDINGS.

Congress finds that—

(1) databases of personally identifiable information are increasingly prime targets of hackers, identity thieves, rogue employees, and other criminals, including organized and sophisticated criminal operations;

(2) identity theft is a serious threat to the nation's economic stability, homeland security, the development of e-commerce, and the privacy rights of Americans;

(3) over 9,300,000 individuals were victims of identity theft in America last year;

(4) security breaches are a serious threat to consumer confidence, homeland security, e-commerce, and economic stability;

(5) it is important for business entities that own, use, or license personally identifiable information to adopt reasonable procedures to ensure the security, privacy, and confidentially of that personally identifiable information;

(6) individuals whose personal information has been compromised or who have been victims of identity theft should receive the necessary information and assistance to mitigate their damages and to restore the integrity of their personal information and identities;

(7) data brokers have assumed a significant role in providing identification, authentication, and screening services, and related data collection and analyses for commercial, nonprofit, and government operations;

(8) data misuse and use of inaccurate data have the potential to cause serious or irreparable harm to an individual's livelihood, privacy, and liberty and undermine efficient and effective business and government operations;

(9) there is a need to insure that data brokers conduct their operations in a manner that prioritizes fairness, transparency, accuracy, and respect for the privacy of consumers;

(10) government access to commercial data can potentially improve safety, law enforcement, and national security; and

(11) because government use of commercial data containing personal information potentially affects individual privacy, and law enforcement and national security operations, there is a need for Congress to exercise oversight over government use of commercial data.

SEC. 3. DEFINITIONS.

In this Act:

(1) AGENCY.—The term ''agency'' has the same meaning given such term in section 551 of title 5, United States Code.

(2) AFFILIATE.—The term ''affiliate'' means persons related by common ownership or by corporate control.

(3) BUSINESS ENTITY.—The term ''business entity'' means any organization, corporation, trust, partnership, sole proprietorship, unincorporated association, venture established to make a profit, or nonprofit, and any contractor, subcontractor, affiliate, or licensee thereof engaged in interstate commerce.

(4) IDENTITY THEFT.—The term ''identity theft'' means a violation of section 1028 of title 18, United States Code, or any other similar provision of applicable State law.

(5) DATA BROKER.—The term ''data broker'' means a business entity which for monetary fees, dues, or on a cooperative nonprofit basis, currently or regularly engages, in whole or in part, in the practice of collecting, transmitting, or providing access to sensitive personally identifiable information primarily for the purposes of providing such information to nonaffiliated third parties on a nationwide basis on more than 5,000 individuals who are not the customers or employees of the business entity or affiliate.

(6) DATA FURNISHER.—The term ''data furnisher'' means any agency, governmental entity, organization, corporation, trust, partnership, sole proprietorship, unincorporated association, venture established to make a profit, or nonprofit, and any contractor, subcontractor, affiliate, or licensee thereof, that serves as a source of information for a data broker.

(7) PERSONAL ELECTRONIC RECORD.—The term ''personal electronic record'' means data associated with an individual contained in a database, networked or integrated databases, or other data system that holds sensitive personally identifiable information of that individual and is provided to non-affiliated third parties.

(8) PERSONALLY IDENTIFIABLE INFORMATION.—The term ''personally identifiable information'' means any information, or compilation of information, in electronic or digital form serving as a means of identification, as defined by section 1028(d)(7) of title 18, United State Code.

(9) PUBLIC RECORD SOURCE.—The term ''public record source'' means any agency, Federal court, or State court that maintains personally identifiable information in records available to the public.

(10) SECURITY BREACH.—

(A) IN GENERAL.—The term ''security breach'' means compromise of the security, confidentiality, or integrity of computerized data through misrepresentation or actions that result in, or there is a reasonable basis to conclude has resulted in, the unauthorized acquisition of and access to sensitive personally identifiable information.

(B) EXCLUSION.—The term ''security breach'' does not include—

(i) a good faith acquisition of sensitive personally identifiable information by a business entity or agency, or an employee or agent of a business entity or agency, if the sensitive personally identifiable information is not subject to further unauthorized disclosure; or

(ii) the release of a public record not otherwise subject to confidentiality or nondisclosure requirements.

(11) SENSITIVE PERSONALLY IDENTIFIABLE INFORMATION.—The term ''sensitive personally identifiable information'' means any information or compilation of information, in electronic or digital form that includes:

(A) An individual's name in combination with any 1 of the following data elements:

(i) A non-truncated social security number, driver's license number, passport number, or alien registration number.

(ii) Any 2 of the following:

(I) Information that relates to—

(aa) the past, present, or future physical or mental health or condition of an individual;

(bb) the provision of health care to an individual; or

(cc) the past, present, or future payment for the provision of health care to an individual.

(II) Home address or telephone number.

(III) Mother's maiden name, if identified as such.

(IV) Month, day, and year of birth.

(iii) Unique biometric data such as a finger print, voice print, a retina or iris image, or any other unique physical representation.

(iv) A unique electronic identification number, user name, or routing code in combination with the associated security code, access code, or password.

(v) Any other information regarding an individual determined appropriate by the Federal Trade Commission.

(B) A financial account number or credit or debit card number in combination with the required security code, access code, or password.

TITLE I—ENHANCING PUNISHMENT FOR IDENTITY THEFT AND OTHER VIOLATIONS OF DATA PRIVACY AND SECURITY

SEC. 101. FRAUD AND RELATED CRIMINAL ACTIVITY IN CONNECTION WITH UNAUTHORIZED ACCESS TO PERSONALLY IDENTIFIABLE INFORMATION.

Section 1030(a)(2) of title 18, United States Code, is amended—

(1) in subparagraph (B), by striking ''or'' after the semicolon;

(2) in subparagraph (C), by inserting ''or'' after the semicolon; and

(3) by adding at the end the following:

''(D) information contained in the databases or systems of a data broker, or in other personal electronic records, as such terms are defined in section 3 of the Personal Data Privacy and Security Act of 2005;''.

SEC. 102. ORGANIZED CRIMINAL ACTIVITY IN CONNECTION WITH UNAUTHORIZED ACCESS TO PERSONALLY IDENTIFIABLE INFORMATION.

Section 1961(1) of title 18, United States Code, is amended by inserting ''section 1030(a)(2)(D)(relating to fraud and related activity in connection with unauthorized access to personally identifiable information,'' before ''section 1084''.

SEC. 103. CONCEALMENT OF SECURITY BREACHES INVOLVING SENSITIVE PERSONALLY IDENTIFIABLE INFORMATION.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following:

"§ 1039. Concealment of security breaches involving sensitive personally identifiable information

''(a) Whoever, having knowledge of a security breach and the obligation to provide notice of such breach to individuals under title IV of the Personal Data Privacy and Security Act of 2005, and having not otherwise qualified for an exemption from providing notice under section 422 of such Act, intentionally and willfully conceals the fact of such security breach which causes economic damages to 1 or more persons, shall be fined under this title or imprisoned not more than 5 years, or both.

''(b) For purposes of subsection (a), the term 'person' means any individual, corporation, company, association, firm, partnership, society, or joint stock company.''.

(b) CONFORMING AND TECHNICAL AMENDMENTS.—The table of sections for chapter 47 of title 18, United States Code, is amended by adding at the end the following:

''1039. Concealment of security breaches involving personally identifiable information.''.

(c) ENFORCEMENT AUTHORITY.—The United States Secret Service shall have the authority to investigate offenses under this section.

SEC. 104. AGGRAVATED FRAUD IN CONNECTION WITH COMPUTERS.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding after section 1030 the following:

"§ 1030A. Aggravated fraud in connection with computers

''(a) IN GENERAL.—Whoever, during and in relation to any felony violation enumerated in subsection (c), knowingly obtains, accesses, or transmits, without lawful authority, a means of identification of another person may, in addition to the punishment provided for such felony, be sentenced to a term of imprisonment of up to 2 years.

''(b) CONSECUTIVE SENTENCES.—Notwithstanding any other provision of law, should a court in its discretion impose an additional sentence under subsection (a)—

''(1) no term of imprisonment imposed on a person under this section shall run concurrently, except as provided in paragraph (3), with any other term of imprisonment imposed on such person under any other provision of law, including any term of imprisonment imposed for the felony during which the means of identifications was obtained, accessed, or transmitted;

''(2) in determining any term of imprisonment to be imposed for the felony during which the means of identification was obtained, accessed, or transmitted, a court shall not in any way reduce the term to be imposed for such crime so as to compensate for, or otherwise take into account, any separate term of imprisonment imposed or to be imposed for a violation of this section; and

''(3) a term of imprisonment imposed on a person for a violation of this section may, in the discretion of the court, run concurrently, in whole or in part, only with another term of imprisonment that is imposed by the court at the same time on that person for an additional violation of this section.

''(c) DEFINITION.—For purposes of this section, the term 'felony violation enumerated in subsection (c)' means any offense that is a felony violation of paragraphs (2) through (7) of section 1030(a).''.

(b) CONFORMING AND TECHNICAL AMENDMENTS.—The table of sections for chapter 47 of title 18, United States Code, is amended by inserting after the item relating to section 1030 the following new item:

''1030A. Aggravated fraud in connection with computers.''.

SEC. 105. REVIEW AND AMENDMENT OF FEDERAL SENTENCING GUIDELINES RELATED TO FRAUDULENT ACCESS TO OR MISUSE OF DIGITIZED OR ELECTRONIC PERSONALLY IDENTIFIABLE INFORMATION.

(a) REVIEW AND AMENDMENT.—Not later than 180 days after the date of enactment of this Act, the United States Sentencing Commission, pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, shall review and, if appropriate, amend the Federal sentencing guidelines (including its policy statements) applicable to persons convicted of using fraud to access, or misuse of, digitized or electronic personally identifiable information, including identity theft or any offense under—

(1) sections 1028, 1028A, 1030, 1030A, 2511, and 2701 of title 18, United States Code; or

(2) any other relevant provision.

(b) REQUIREMENTS.—In carrying out the requirements of this section, the United States Sentencing Commission shall—

(1) ensure that the Federal sentencing guidelines (including its policy statements) reflect—

(A) the serious nature of the offenses and penalties referred to in this Act;

(B) the growing incidences of theft and misuse of digitized or electronic personally identifiable information, including identity theft; and

(C) the need to deter, prevent, and punish such offenses;

(2) consider the extent to which the Federal sentencing guidelines (including its policy statements) adequately address violations of the sections amended by this Act to—

(A) sufficiently deter and punish such offenses; and

(B) adequately reflect the enhanced penalties established under this Act;

(3) maintain reasonable consistency with other relevant directives and sentencing guidelines;

(4) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;

(5) consider whether to provide a sentencing enhancement for those convicted of the offenses described in subsection (a), if the conduct involves—

(A) the online sale of fraudulently obtained or stolen personally identifiable information;

(B) the sale of fraudulently obtained or stolen personally identifiable information to an individual who is engaged in terrorist activity or aiding other individuals engaged in terrorist activity; or

(C) the sale of fraudulently obtained or stolen personally identifiable information to finance terrorist activity or other criminal activities;

(6) make any necessary conforming changes to the Federal sentencing guidelines to ensure that such guidelines (including its policy statements) as described in subsection (a) are sufficiently stringent to deter, and adequately reflect crimes related to fraudulent access to, or misuse of, personally identifiable information; and

(7) ensure that the Federal sentencing guidelines adequately meet the purposes of sentencing under section 3553(a)(2) of title 18, United States Code.

(c) EMERGENCY AUTHORITY TO SENTENCING COMMISSION.—The United States Sentencing Commission may, as soon as practicable, promulgate amendments under this section in accordance with procedures established in section 21(a) of the Sentencing Act of 1987 (28 U.S.C. 994 note) as though the authority under that Act had not expired.

TITLE II—ASSISTANCE FOR STATE AND LOCAL LAW ENFORCEMENT COMBATING CRIMES RELATED TO FRAUDULENT, UNAUTHORIZED, OR OTHER CRIMINAL USE OF PERSONALLY IDENTIFIABLE INFORMATION

SEC. 201. GRANTS FOR STATE AND LOCAL ENFORCEMENT.

(a) IN GENERAL.—Subject to the availability of amounts provided in advance in appropriations Acts, the Assistant Attorney General for the Office of Justice Programs of the Department of Justice may award a grant to a State to establish and develop programs to increase and enhance enforcement against crimes related to fraudulent, unauthorized, or other criminal use of personally identifiable information.

(b) APPLICATION.—A State seeking a grant under subsection (a) shall submit an application to the Assistant Attorney General for the Office of Justice Programs of the Department of Justice at such time, in such manner, and containing such information as the Assistant Attorney General may require.

(c) USE OF GRANT AMOUNTS.—A grant awarded to a State under subsection (a) shall be used by a State, in conjunction with units of local government within that State, State and local courts, other States, or combinations thereof, to establish and develop programs to—

(1) assist State and local law enforcement agencies in enforcing State and local criminal laws relating to crimes involving the fraudulent, unauthorized, or other criminal use of personally identifiable information;

(2) assist State and local law enforcement agencies in educating the public to prevent and identify crimes involving the fraudulent, unauthorized, or other criminal use of personally identifiable information;

(3) educate and train State and local law enforcement officers and prosecutors to conduct investigations and forensic analyses of evidence and prosecutions of crimes involving the fraudulent, unauthorized, or other criminal use of personally identifiable information;

(4) assist State and local law enforcement officers and prosecutors in acquiring computer and other equipment to conduct investigations and forensic analysis of evidence of crimes involving the fraudulent, unauthorized, or other criminal use of personally identifiable information; and

(5) facilitate and promote the sharing of Federal law enforcement expertise and information about the investigation, analysis, and prosecution of crimes involving the fraudulent, unauthorized, or other criminal use of personally identifiable information with State and local law enforcement officers and prosecutors, including the use of multi-jurisdictional task forces.

(d) ASSURANCES AND ELIGIBILITY.—To be eligible to receive a grant under subsection (a), a State shall provide assurances to the Attorney General that the State—

(1) has in effect laws that penalize crimes involving the fraudulent, unauthorized, or other criminal use of personally identifiable information, such as penal laws prohibiting—

(A) fraudulent schemes executed to obtain personally identifiable information;

(B) schemes executed to sell or use fraudulently obtained personally identifiable information; and

(C) online sales of personally identifiable information obtained fraudulently or by other illegal means;

(2) will provide an assessment of the resource needs of the State and units of local government within that State, including criminal justice resources being devoted to the investigation and enforcement of laws

related to crimes involving the fraudulent, unauthorized, or other criminal use of personally identifiable information; and

(3) will develop a plan for coordinating the programs funded under this section with other federally funded technical assistant and training programs, including directly funded local programs such as the Local Law Enforcement Block Grant program (described under the heading ''Violent Crime Reduction Programs, State and Local Law Enforcement Assistance'' of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998 (Public Law 105–119)).

(e) MATCHING FUNDS.—The Federal share of a grant received under this section may not exceed 90 percent of the total cost of a program or proposal funded under this section unless the Attorney General waives, wholly or in part, the requirements of this subsection.

SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this title $25,000,000 for each of fiscal years 2006 through 2009.

(b) LIMITATIONS.—Of the amount made available to carry out this title in any fiscal year not more than 3 percent may be used by the Attorney General for salaries and administrative expenses.

(c) MINIMUM AMOUNT.—Unless all eligible applications submitted by a State or units of local government within a State for a grant under this title have been funded, the State, together with grantees within the State (other than Indian tribes), shall be allocated in each fiscal year under this title not less than 0.75 percent of the total amount appropriated in the fiscal year for grants pursuant to this title, except that the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands each shall be allocated 0.25 percent.

(d) GRANTS TO INDIAN TRIBES.—Notwithstanding any other provision of this title, the Attorney General may use amounts made available under this title to make grants to Indian tribes for use in accordance with this title.

TITLE III—DATA BROKERS

SEC. 301. TRANSPARENCY AND ACCURACY OF DATA COLLECTION.

(a) IN GENERAL.—Data brokers engaging in interstate commerce are subject to the requirements of this title for any product or service offered to third parties that allows access, use, compilation, distribution, processing, analyzing, or evaluation of sensitive personally identifiable information.

(b) LIMITATION.—Notwithstanding any other paragraph of this title, this section shall not apply to—

(1) brokers engaging in interstate commerce for any offered product or service currently subject to, and in compliance with, access and accuracy protections similar to those under subsections (c) through (f) of this section under the Fair Credit Reporting Act (Public Law 91–508), or the Gramm-Leach Bliley Act (Public Law 106–102);

(2) data brokers engaging in interstate commerce for any offered product or service currently in compliance with the requirements for such entities under the Health Insurance Portability and Accountability Act (Public Law 104–191), and implementing regulations;

(3) information in a personal electronic record held by a data broker if—

(A) the data broker maintains such information solely pursuant to a license agreement with another business entity; and

(B) the business entity providing such information to the data broker pursuant to a license agreement either complies with the provisions of this section or qualifies for this exemption; and

(4) information in a personal record that—

(A) the data broker has identified as inaccurate, but maintains for the purpose of aiding the data broker in preventing inaccurate information from entering an individual's personal electronic record; and

(B) is not maintained primarily for the purpose of transmitting or otherwise providing that information, or assessments based on that information, to non-affiliated third parties.

(c) DISCLOSURES TO INDIVIDUALS.—

(1) IN GENERAL.—A data broker shall, upon the request of an individual, clearly and accurately disclose to such individual for a reasonable fee all personal electronic records pertaining to that individual maintained for disclosure to third parties in the ordinary course of business in the databases or systems of the data broker at the time of the request.

(2) INFORMATION ON HOW TO CORRECT INACCURACIES.—The disclosures required under paragraph (1) shall also include guidance to individuals on the processes and procedures for demonstrating and correcting any inaccuracies.

(d) CREATION OF AN ACCURACY RESOLUTION PROCESS.—A data broker shall develop and publish on its website timely and fair processes and procedures for responding to claims of inaccuracies, including procedures for correcting inaccurate information in the personal electronic records it maintains on individuals.

(e) ACCURACY RESOLUTION PROCESS.—

(1) INFORMATION FROM A PUBLIC RECORD SOURCE.—

(A) IN GENERAL.—If an individual notifies a data broker of a dispute as to the completeness or accuracy of information, and the data broker determines that such information is derived from a public record source, the data broker shall determine within 30 days whether the information in its system accurately and completely records the information offered by the public record source.

(B) DATA BROKER ACTIONS.—If a data broker determines under subparagraph (A) that the information in its systems—

(i) does not accurately and completely record the information offered by a public record source, the data broker shall correct any inaccuracies or incompleteness, and provide to such individual written notice of such changes; and

(ii) does accurately and completely record the information offered by a public record source, the data broker shall—

(I) provide such individual with the name, address, and telephone contact information of the public record source; and

(II) notify such individual of the right to add for a period of 90 days to the personal electronic record of the individual maintained by the data broker notice of the dispute under subsection (f).

(2) INVESTIGATION OF DISPUTED INFORMATION NOT FROM A PUBLIC RECORD SOURCE.—If the completeness or accuracy of any nonpublic record source disclosed to an individual under subsection (c) is disputed by the individual and such individual notifies the data broker directly of such dispute, the data broker shall, before the end of the 30-day period beginning on the date on which the data broker receives the notice of the dispute—

(A) investigate free of charge and record the current status of the disputed information; or

(B) delete the item from the individuals data file in accordance with paragraph (8).

(3) EXTENSION OF PERIOD TO INVESTIGATE.—Except as provided in paragraph (4), the 30-day period described in paragraph (1) may be extended for not more than 15 additional days if a data broker receives information from the individual during that 30-day period that is relevant to the investigation.

(4) LIMITATIONS ON EXTENSION OF PERIOD TO INVESTIGATE.—Paragraph (3) shall not apply to any investigation in which, during the 30-day period described in paragraph (1), the information that is the subject of the investigation is found to be inaccurate or incomplete or a data broker determines that the information cannot be verified.

(5) NOTICE IDENTIFYING THE DATA FURNISHER.—If the completeness or accuracy of any information disclosed to an individual under subsection (c) is disputed by the individual, a data broker shall provide upon the request of the individual, the name, business address, and telephone contact information of any data furnisher who provided an item of information in dispute.

(6) DETERMINATION THAT DISPUTE IS FRIVOLOUS OR IRRELEVANT.—

(A) IN GENERAL.—Notwithstanding paragraphs (1) through (4), a data broker may decline to investigate or terminate an investigation of information disputed by an individual under those paragraphs if the data broker reasonably determines that the dispute by the individual is frivolous or irrelevant, including by reason of a failure by the individual to provide sufficient information to investigate the disputed information.

(B) NOTICE.—Not later than 5 business days after making any determination in accordance with subparagraph (A) that a dispute is frivolous or irrelevant, a data broker shall notify the individual of such determination by mail, or if authorized by the individual, by any other means available to the data broker.

(C) CONTENTS OF NOTICE.—A notice under subparagraph (B) shall include—

(i) the reasons for the determination under subparagraph (A); and

(ii) identification of any information required to investigate the disputed information, which may consist of a standardized form describing the general nature of such information.

(7) CONSIDERATION OF INDIVIDUAL INFORMATION.—In conducting any investigation with respect to disputed information in the personal electronic record of any individual, a data broker shall review and consider all relevant information submitted by the individual in the period described in paragraph (2) with respect to such disputed information.

(8) TREATMENT OF INACCURATE OR UNVERIFIABLE INFORMATION.—

(A) IN GENERAL.—If, after any review of public record information under paragraph (1) or any investigation of any information disputed by an individual under paragraphs (2) through (4), an item of information is found to be inaccurate or incomplete or cannot be verified, a data broker shall promptly delete that item of information from the individual's personal electronic record or modify that item of information, as appropriate, based on the results of the investigation.

(B) NOTICE TO INDIVIDUALS OF REINSERTION OF PREVIOUSLY DELETED INFORMATION.—If any information that has been deleted from an individual's personal electronic record pursuant to subparagraph (A) is reinserted in the personal electronic record of the individual, a data broker shall, not later than 5 days after reinsertion, notify the individual of the reinsertion and identify any data furnisher not previously disclosed in writing, or if authorized by the individual for that purpose, by any other means available to the data broker, unless such notification has been previously given under this subsection.

(C) NOTICE OF RESULTS OF INVESTIGATION OF DISPUTED INFORMATION FROM A NONPUBLIC RECORD SOURCE.—

(i) IN GENERAL.—Not later than 5 business days after the completion of an investigation under paragraph (2), a data broker shall provide written notice to an individual of the results of the investigation, by mail or, if authorized by the individual for that purpose, by other means available to the data broker.

(ii) ADDITIONAL REQUIREMENT.—Before the expiration of the 5-day period, as part of, or in addition to such notice, a data broker shall, in writing, provide to an individual—

(I) a statement that the investigation is completed;

(II) a report that is based upon the personal electronic record of such individual as that personal electronic record is revised as a result of the investigation;

(III) a notice that, if requested by the individual, a description of the procedures used to determine the accuracy and completeness of the information shall be provided to the individual by the data broker, including the business name, address, and telephone number of any data furnisher of information contacted in connection with such information; and

(IV) a notice that the individual has the right to request notifications under subsection (f).

(D) DESCRIPTION OF INVESTIGATION PROCEDURES.—Not later than 15 days after receiving a request from an individual for a description referred to in subparagraph (C)(ii)(III), a data broker shall provide to the individual such a description.

(E) EXPEDITED DISPUTE RESOLUTION.—If by no later than 3 business days after the date on which a data broker receives notice of a dispute from an individual of information in the personal electronic record of such individual in accordance with paragraph (2), a data broker resolves such dispute in accordance with subparagraph (A) by the deletion of the disputed information, then the data broker shall not be required to comply with subsections (e) and (f) with respect to that dispute if the data broker provides to the individual, by telephone or other means authorized by the individual, prompt notice of the deletion.

(f) NOTICE OF DISPUTE.—

(1) IN GENERAL.—If the completeness or accuracy of any information disclosed to an individual under subsection (c) is disputed and unless there is a reasonable ground to believe that such dispute is frivolous or irrelevant, an individual may request that the data broker indicate notice of the dispute for a period of—

(A) 30 days for information from a nonpublic record source; and

(B) 90 days for information from a public record source.

(2) COMPLIANCE.—A data broker shall be deemed in compliance with the requirements under paragraph (1) by either—

(A) allowing the individual to file a brief statement setting forth the nature of the dispute under paragraph (3); or

(B) using an alternative notice method that—

(i) clearly flags the disputed information for third parties accessing the information; and

(ii) provides a means for third parties to obtain further information regarding the nature of the dispute.

(3) CONTENTS OF STATEMENT.—A data broker may limit statements made under paragraph (2)(A) to not more than 100 words if it provides an individual with assistance in writing a clear summary of the dispute or until the dispute is resolved.

(g) ADDITIONAL REQUIREMENTS.—The Federal Trade Commission may exempt certain classes of data brokers from this title in a rulemaking process pursuant to section 553 of title 5, United States Code.

SEC. 302. ENFORCEMENT.

(a) CIVIL PENALTIES.—

(1) PENALTIES.—Any data broker that violates the provisions of section 301 shall be subject to civil penalties of not more than $1,000 per violation per day, with a maximum of $15,000 per day, while such violations persist.

(2) INTENTIONAL OR WILLFUL VIOLATION.—A data broker that intentionally or willfully violates the provisions of section 301 shall be subject to additional penalties in the amount of $1,000 per violation per day, with a maximum of an additional $15,000 per day, while such violations persist.

(3) EQUITABLE RELIEF.—A data broker engaged in interstate commerce that violates this section may be enjoined from further violations by a court of competent jurisdiction.

(4) OTHER RIGHTS AND REMEDIES.—The rights and remedies available under this subsection are cumulative and shall not affect any other rights and remedies available under law.

(b) INJUNCTIVE ACTIONS BY THE ATTORNEY GENERAL.—

(1) IN GENERAL.—Whenever it appears that a data broker to which this title applies has engaged, is engaged, or is about to engage, in any act or practice constituting a violation of this title, the Attorney General may bring a civil action in an appropriate district court of the United States to—

(A) enjoin such act or practice;

(B) enforce compliance with this title;

(C) obtain damages—

(i) in the sum of actual damages, restitution, and other compensation on behalf of the affected residents of a State; and

(ii) punitive damages, if the violation is willful or intentional; and

(D) obtain such other relief as the court determines to be appropriate.

(2) OTHER INJUNCTIVE RELIEF.—Upon a proper showing in the action under paragraph (1), the court shall grant a permanent injunction or a temporary restraining order without bond.

(c) STATE ENFORCEMENT.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by an act or practice that violates this title, the State may bring a civil action on behalf of the residents of that State in a district court of the United States of appropriate jurisdiction, or any other court of competent jurisdiction, to—

(A) enjoin that act or practice;

(B) enforce compliance with this title;

(C) obtain—

(i) damages in the sum of actual damages, restitution, or other compensation on behalf of affected residents of the State; and

(ii) punitive damages, if the violation is willful or intentional; or

(D) obtain such other legal and equitable relief as the court may consider to be appropriate.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under this subsection, the attorney general of the State involved shall provide to the Attorney General—

(i) a written notice of that action; and

(ii) a copy of the complaint for that action.

(B) EXCEPTION.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general of a State determines that it is not feasible to provide the notice described in this subparagraph before the filing of the action.

(C) NOTIFICATION WHEN PRACTICABLE.—In an action described under subparagraph (B), the attorney general of a State shall provide the written notice and the copy of the complaint to the Attorney General as soon after the filing of the complaint as practicable.

(3) ATTORNEY GENERAL AUTHORITY.—Upon receiving notice under paragraph (2), the Attorney General shall have the right to—

(A) move to stay the action, pending the final disposition of a pending Federal proceeding or action as described in paragraph (4);

(B) intervene in an action brought under paragraph (1); and

(C) file petitions for appeal.

(4) PENDING PROCEEDINGS.—If the Attorney General has instituted a proceeding or action for a violation of this title or any regulations thereunder, no attorney general of a State may, during the pendency of such proceeding or action, bring an action under this subsection against any defendant named in such criminal proceeding or civil action for any violation that is alleged in that proceeding or action.

(5) RULE OF CONSTRUCTION.—For purposes of bringing any civil action under paragraph (1), nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(A) conduct investigations;

(B) administer oaths and affirmations; or

(C) compel the attendance of witnesses or the production of documentary and other evidence.

(6) VENUE; SERVICE OF PROCESS.—

(A) VENUE.—Any action brought under this subsection may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1931 of title 28, United States Code.

(B) SERVICE OF PROCESS.—In an action brought under this subsection process may be served in any district in which the defendant—

(i) is an inhabitant; or

(ii) may be found.

(d) NO PRIVATE CAUSE OF ACTION.—Nothing in this title establishes a private cause of action against a data broker for violation of any provision of this title.

SEC. 303. RELATION TO STATE LAWS.

No requirement or prohibition may be imposed under the laws of any State with respect to any subject matter regulated under section 301, relating to individual access to, and correction of, personal electronic records held by databrokers.

SEC. 304. EFFECTIVE DATE.

This title shall take effect 180 days after the date of enactment of this Act and shall be implemented pursuant to a State by State rollout schedule set by the Federal Trade Commission, but in no case shall full implementation and effect of this title occur later than 1 year and 180 days after the date of enactment of this Act.

TITLE IV—PRIVACY AND SECURITY OF PERSONALLY IDENTIFIABLE INFORMATION

Subtitle A—Data Privacy and Security Program

SEC. 401. PURPOSE AND APPLICABILITY OF DATA PRIVACY AND SECURITY PROGRAM.

(a) PURPOSE.—The purpose of this subtitle is to ensure standards for developing and implementing administrative, technical, and physical safeguards to protect the privacy, security, confidentiality, integrity, storage, and disposal of sensitive personally identifiable information.

(b) IN GENERAL.—A business entity engaging in interstate commerce that involves collecting, accessing, transmitting, using, storing, or disposing of sensitive personally identifiable information in electronic or digital form on 10,000 or more United States

persons is subject to the requirements for a data privacy and security program under section 402 for protecting sensitive personally identifiable information.

(c) LIMITATIONS.—Notwithstanding any other obligation under this subtitle, this subtitle does not apply to—

(1) financial institutions—

(A) subject to the data security requirements and implementing regulations under the Gramm-Leach-Bliley Act (15 U.S.C. 6801 et seq.); and

(B) subject to—

(i) examinations for compliance with the requirements of this Act by 1 or more Federal or State functional regulators (as defined in section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809)); or

(ii) compliance with part 314 of title 16, Code of Federal Regulations; or

(2) ''covered entities'' subject to the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1301 et seq.), including the data security requirements and implementing regulations of that Act.

(d) SAFE HARBOR.—A business entity shall be deemed in compliance with the privacy and security program requirements under section 402 if the business entity complies with or provides protection equal to industry standards, as identified by the Federal Trade Commission, that are applicable to the type of sensitive personally identifiable information involved in the ordinary course of business of such business entity.

SEC. 402. REQUIREMENTS FOR A PERSONAL DATA PRIVACY AND SECURITY PROGRAM.

(a) PERSONAL DATA PRIVACY AND SECURITY PROGRAM.—Unless otherwise limited under section 401(c), a business entity subject to this subtitle shall comply with the following safeguards and any others identified by the Federal Trade Commission in a rulemaking process pursuant to section 553 of title 5, United States Code, to protect the privacy and security of sensitive personally identifiable information:

(1) SCOPE.—A business entity shall implement a comprehensive personal data privacy and security program that includes administrative, technical, and physical safeguards appropriate to the size and complexity of the business entity and the nature and scope of its activities.

(2) DESIGN.—The personal data privacy and security program shall be designed to—

(A) ensure the privacy, security, and confidentiality of personal electronic records;

(B) protect against any anticipated vulnerabilities to the privacy, security, or integrity of personal electronic records; and

(C) protect against unauthorized access to use of personal electronic records that could result in substantial harm or inconvenience to any individual.

(3) RISK ASSESSMENT.—A business entity shall—

(A) identify reasonably foreseeable internal and external vulnerabilities that could result in unauthorized access, disclosure, use, or alteration of sensitive personally identifiable information or systems containing sensitive personally identifiable information;

(B) assess the likelihood of and potential damage from unauthorized access, disclosure, use, or alteration of sensitive personally identifiable information; and

(C) assess the sufficiency of its policies, technologies, and safeguards in place to control and minimize risks from unauthorized access, disclosure, use, or alteration of sensitive personally identifiable information.

(4) RISK MANAGEMENT AND CONTROL.—Each business entity shall—

(A) design its personal data privacy and security program to control the risks identified under paragraph (3); and

(B) adopt measures commensurate with the sensitivity of the data as well as the size, complexity, and scope of the activities of the business entity that—

(i) control access to systems and facilities containing sensitive personally identifiable information, including controls to authenticate and permit access only to authorized individuals;

(ii) detect actual and attempted fraudulent, unlawful, or unauthorized access, disclosure, use, or alteration of sensitive personally identifiable information, including by employees and other individuals otherwise authorized to have access; and

(iii) protect sensitive personally identifiable information during use, transmission, storage, and disposal by encryption or other reasonable means (including as directed for disposal of records under section 628 of the Fair Credit Reporting Act (15 U.S.C. 1681w) and the implementing regulations of such Act as set forth in section 682 of title 16, Code of Federal Regulations).

(b) TRAINING.—Each business entity subject to this subtitle shall take steps to ensure employee training and supervision for implementation of the data security program of the business entity.

(c) VULNERABILITY TESTING.—

(1) IN GENERAL.—Each business entity subject to this subtitle shall take steps to ensure regular testing of key controls, systems, and procedures of the personal data privacy and security program to detect, prevent, and respond to attacks or intrusions, or other system failures.

(2) FREQUENCY.—The frequency and nature of the tests required under paragraph (1) shall be determined by the risk assessment of the business entity under subsection (a)(3).

(d) RELATIONSHIP TO SERVICE PROVIDERS.—In the event a business entity subject to this subtitle engages service providers not subject to this subtitle, such business entity shall—

(1) exercise appropriate due diligence in selecting those service providers for responsibilities related to sensitive personally identifiable information, and take reasonable steps to select and retain service providers that are capable of maintaining appropriate safeguards for the security, privacy, and integrity of the sensitive personally identifiable information at issue; and

(2) require those service providers by contract to implement and maintain appropriate measures designed to meet the objectives and requirements governing entities subject to this section, section 401, and subtitle B.

(e) PERIODIC ASSESSMENT AND PERSONAL DATA PRIVACY AND SECURITY MODERNIZATION.—Each business entity subject to this subtitle shall on a regular basis monitor, evaluate, and adjust, as appropriate its data privacy and security program in light of any relevant changes in—

(1) technology;

(2) the sensitivity of personally identifiable information;

(3) internal or external threats to personally identifiable information; and

(4) the changing business arrangements of the business entity, such as—

(A) mergers and acquisitions;

(B) alliances and joint ventures;

(C) outsourcing arrangements;

(D) bankruptcy; and

(E) changes to sensitive personally identifiable information systems.

(f) IMPLEMENTATION TIME LINE.—Not later than 1 year after the date of enactment of this Act, a business entity subject to the provisions of this subtitle shall implement a data privacy and security program pursuant to this subtitle.

SEC. 403. ENFORCEMENT.

(a) CIVIL PENALTIES.—

(1) IN GENERAL.—Any business entity that violates the provisions of sections 401 or 402 shall be subject to civil penalties of not more than $5,000 per violation per day, with a maximum of $35,000 per day, while such violations persist.

(2) INTENTIONAL OR WILLFUL VIOLATION.—A business entity that intentionally or willfully violates the provisions of sections 401 or 402 shall be subject to additional penalties in the amount of $5,000 per violation per day, with a maximum of an additional $35,000 per day, while such violations persist.

(3) EQUITABLE RELIEF.—A business entity engaged in interstate commerce that violates this section may be enjoined from further violations by a court of competent jurisdiction.

(4) OTHER RIGHTS AND REMEDIES.—The rights and remedies available under this section are cumulative and shall not affect any other rights and remedies available under law

(b) INJUNCTIVE ACTIONS BY THE ATTORNEY GENERAL.—

(1) IN GENERAL.—Whenever it appears that a business entity or agency to which this subtitle applies has engaged, is engaged, or is about to engage, in any act or practice constituting a violation of this subtitle, the Attorney General may bring a civil action in an appropriate district court of the United States to—

(A) enjoin such act or practice;

(B) enforce compliance with this subtitle; and

(C) obtain damages—

(i) in the sum of actual damages, restitution, and other compensation on behalf of the affected residents of a State; and

(ii) punitive damages, if the violation is willful or intentional; and

(D) obtain such other relief as the court determines to be appropriate.

(2) OTHER INJUNCTIVE RELIEF.—Upon a proper showing in the action under paragraph (1), the court shall grant a permanent injunction or a temporary restraining order without bond.

(c) STATE ENFORCEMENT.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by an act or practice that violates this subtitle, the State may bring a civil action on behalf of the residents of that State in a district court of the United States of appropriate jurisdiction, or any other court of competent jurisdiction, to—

(A) enjoin that act or practice;

(B) enforce compliance with this subtitle;

(C) obtain—

(i) damages in the sum of actual damages, restitution, or other compensation on behalf of affected residents of the State; and

(ii) punitive damages, if the violation is willful or intentional; or

(D) obtain such other legal and equitable relief as the court may consider to be appropriate.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under this subsection, the attorney general of the State involved shall provide to the Attorney General—

(i) a written notice of that action; and

(ii) a copy of the complaint for that action.

(B) EXCEPTION.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general of a

State determines that it is not feasible to provide the notice described in this subparagraph before the filing of the action.

(C) NOTIFICATION WHEN PRACTICABLE.—In an action described under subparagraph (B), the attorney general of a State shall provide the written notice and the copy of the complaint to the Attorney General as soon after the filing of the complaint as practicable.

(3) ATTORNEY GENERAL AUTHORITY.—Upon receiving notice under paragraph (2), the Attorney General shall have the right to—

(A) move to stay the action, pending the final disposition of a pending Federal proceeding or action as described in paragraph (4);

(B) intervene in an action brought under paragraph (1); and

(C) file petitions for appeal.

(4) PENDING PROCEEDINGS.—If the Attorney General has instituted a proceeding or action for a violation of this title or any regulations thereunder, no attorney general of a State may, during the pendency of such proceeding or action, bring an action under this subsection against any defendant named in such criminal proceeding or civil action for any violation that is alleged in that proceeding or action.

(5) RULE OF CONSTRUCTION.—For purposes of bringing any civil action under paragraph (1) nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(A) conduct investigations;

(B) administer oaths and affirmations; or

(C) compel the attendance of witnesses or the production of documentary and other evidence.

(6) VENUE; SERVICE OF PROCESS.—

(A) VENUE.—Any action brought under this subsection may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1931 of title 28, United States Code.

(B) SERVICE OF PROCESS.—In an action brought under this subsection process may be served in any district in which the defendant—

(i) is an inhabitant; or

(ii) may be found.

(d) NO PRIVATE CAUSE OF ACTION.—Nothing in this title establishes a private cause of action against a business entity for violation of any provision of this subtitle.

SEC. 404. RELATION TO STATE LAWS.

(a) IN GENERAL.—No State may—

(1) require an entity described in section 401(c) to comply with this subtitle or any regulation promulgated thereunder; and

(2) require an entity in compliance with the safe harbor established under section 401(d), to comply with any other provision of this subtitle.

(b) EFFECT OF SUBTITLE A.—Except as provided in subsection (a), this subtitle does not annul, alter, affect, or exempt any person subject to the provisions of this subtitle from complying with the laws of any State with respect to security programs for sensitive personally identifiable information, except to the extent that those laws are inconsistent with any provisions of this subtitle, and then only to the extent of such inconsistency.

Subtitle B—Security Breach Notification

SEC. 421. NOTICE TO INDIVIDUALS.

(a) IN GENERAL.—Any agency, or business entity engaged in interstate commerce, that uses, accesses, transmits, stores, disposes of or collects sensitive personally identifiable information shall, following the discovery of a security breach maintained by the agency or business entity that contains such information, notify any resident of the United States whose sensitive personally identifiable information was subject to the security breach.

(b) OBLIGATION OF OWNER OR LICENSEE.—

(1) NOTICE TO OWNER OR LICENSEE.—Any agency, or business entity engaged in interstate commerce, that uses, accesses, transmits, stores, disposes of, or collects sensitive personally identifiable information that the agency or business entity does not own or license shall notify the owner or licensee of the information following the discovery of a security breach containing such information.

(2) NOTICE BY OWNER, LICENSEE OR OTHER DESIGNATED THIRD PARTY.—Noting in this subtitle shall prevent or abrogate an agreement between an agency or business entity required to give notice under this section and a designated third party, including an owner or licensee of the sensitive personally identifiable information subject to the security breach, to provide the notifications required under subsection (a).

(3) BUSINESS ENTITY RELIEVED FROM GIVING NOTICE.—A business entity obligated to give notice under subsection (a) shall be relieved of such obligation if an owner or licensee of the sensitive personally identifiable information subject to the security breach, or other designated third party, provides such notification.

(c) TIMELINESS OF NOTIFICATION.—

(1) IN GENERAL.—All notifications required under this section shall be made without unreasonable delay following—

(A) the discovery by the agency or business entity of a security breach; and

(B) any measures necessary to determine the scope of the breach, prevent further disclosures, and restore the reasonable integrity of the data system.

(2) BURDEN OF PROOF.—The agency, business entity, owner, or licensee required to provide notification under this section shall have the burden of demonstrating that all notifications were made as required under this subtitle, including evidence demonstrating the necessity of any delay.

(d) DELAY OF NOTIFICATION AUTHORIZED FOR LAW ENFORCEMENT PURPOSES.—

(1) IN GENERAL.—If a law enforcement agency determines that the notification required under this section would impede a criminal investigation, such notification may be delayed upon the written request of the law enforcement agency.

(2) EXTENDED DELAY OF NOTIFICATION.—If the notification required under subsection (a) is delayed pursuant to paragraph (1), an agency or business entity shall give notice 30 days after the day such law enforcement delay was invoked unless a law enforcement agency provides written notification that further delay is necessary.

SEC. 422. EXEMPTIONS.

(a) EXEMPTION FOR NATIONAL SECURITY AND LAW ENFORCEMENT.—

(1) IN GENERAL.—Section 421 shall not apply to an agency if the head of the agency certifies, in writing, that notification of the security breach as required by section 421 reasonably could be expected to—

(A) cause damage to the national security; or

(B) hinder a law enforcement investigation or the ability of the agency to conduct law enforcement investigations.

(2) LIMITS ON CERTIFICATIONS.—The head of an agency may not execute a certification under paragraph (1) to—

(A) conceal violations of law, inefficiency, or administrative error;

(B) prevent embarrassment to a business entity, organization, or agency; or

(C) restrain competition.

(3) NOTICE.—In every case in which a head of an agency issues a certification under paragraph (1), the certification, accompanied by a concise description of the factual basis for the certification, shall be immediately provided to the Congress.

(b) RISK ASSESSMENT EXEMPTION.—An agency or business entity will be exempt from the notice requirements under section 421, if—

(1) a risk assessment concludes that there is no significant risk that the security breach has resulted in, or will result in, harm to the individuals whose sensitive personally identifiable information was subject to the security breach;

(2) without unreasonable delay, but not later than 45 days after the discovery of a security breach, unless extended by the United States Secret Service, the business entity notifies the United States Secret Service, in writing, of—

(A) the results of the risk assessment;

(B) its decision to invoke the risk assessment exemption; and

(3) the United States Secret Service does not indicate, in writing, within 10 days from receipt of the decision, that notice should be given.

(c) FINANCIAL FRAUD PREVENTION EXEMPTION.—

(1) IN GENERAL.—A business entity will be exempt from the notice requirement under section 421 if the business entity utilizes or participates in a security program that—

(A) is designed to block the use of the sensitive personally identifiable information to initiate unauthorized financial transactions before they are charged to the account of the individual; and

(B) provides for notice after a security breach that has resulted in fraud or unauthorized transactions.

(2) LIMITATION.—The exemption by this subsection does not apply if the information subject to the security breach includes, in addition to an account number, sensitive personally identifiable information.

SEC. 423. METHODS OF NOTICE.

An agency, or business entity shall be in compliance with section 421 if it provides:

(1) INDIVIDUAL NOTICE.—

(A) Written notification to the last known home mailing address of the individual in the records of the agency or business entity; or

(B) E-mail notice, if the individual has consented to receive such notice and the notice is consistent with the provisions permitting electronic transmission of notices under section 101 of the Electronic Signatures in Global and National Commerce Act (15 U.S.C. 7001).

(2) MEDIA NOTICE.—If more than 5,000 residents of a State or jurisdiction are impacted, notice to major media outlets serving that State or jurisdiction.

SEC. 424. CONTENT OF NOTIFICATION.

(a) IN GENERAL.—Regardless of the method by which notice is provided to individuals under section 423, such notice shall include, to the extent possible—

(1) a description of the categories of sensitive personally identifiable information that was, or is reasonably believed to have been, acquired by an unauthorized person;

(2) a toll-free number—

(A) that the individual may use to contact the agency or business entity, or the agent of the agency or business entity; and

(B) from which the individual may learn—

(i) what types of sensitive personally identifiable information the agency or business entity maintained about that individual or about individuals in general; and

(ii) whether or not the agency or business entity maintained sensitive personally identifiable information about that individual; and

(3) the toll-free contact telephone numbers and addresses for the major credit reporting agencies.

(b) ADDITIONAL CONTENT.—Notwithstanding section 429, a State may require that a notice under subsection (a) shall also include information regarding victim protection assistance provided for by that State.

SEC. 425. COORDINATION OF NOTIFICATION WITH CREDIT REPORTING AGENCIES.

If an agency or business entity is required to provide notification to more than 1,000 individuals under section 421(a), the agency or business entity shall also notify, without unreasonable delay, all consumer reporting agencies that compile and maintain files on consumers on a nationwide basis (as defined in section 603(p) of the Fair Credit Reporting Act (15 U.S.C. 1681a(p)) of the timing and distribution of the notices.

SEC. 426. NOTICE TO LAW ENFORCEMENT.

(a) SECRET SERVICE.—Any business entity or agency required to give notice under section 421 shall also give notice to the United States Secret Service if the security breach impacts—

(1) more than 10,000 individuals nationwide;

(2) a database, networked or integrated databases, or other data system associated with the sensitive personally identifiable information on more than 1,000,000 individuals nationwide;

(3) databases owned by the Federal Government; or

(4) primarily sensitive personally identifiable information of employees and contractors of the Federal Government involved in national security or law enforcement.

(b) NOTICE TO OTHER LAW ENFORCEMENT AGENCIES.—The United States Secret Service shall be responsible for notifying—

(1)(A) the Federal Bureau of Investigation, if the security breach involves espionage, foreign counterintelligence, information protected against unauthorized disclosure for reasons of national defense or foreign relations, or Restricted Data (as that term is defined in section 11y of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)), except for offenses affecting the duties of the United States Secret Service under section 3056(a) of title 18, United States Code; and

(B) the United States Postal Inspection Service, if the security breach involves mail fraud; and

(2) the attorney general of each State affected by the security breach.

(c) 30-DAY RULE.—The notices to Federal law enforcement and the attorney general of each State affected by a security breach required under this section shall be delivered without unreasonable delay, but not later than 30 days after discovery of the events requiring notice.

SEC. 427. CIVIL REMEDIES.

(a) PENALTIES.—Any agency, or business entity engaged in interstate commerce, that violates this subtitle shall be subject to a fine of—

(1) not more than $1,000 per individual per day whose sensitive personally identity information was, or is reasonably believed to have been, acquired by an unauthorized person; or

(2) not more than $50,000 per day while the failure to give notice under this subtitle persists.

(b) EQUITABLE RELIEF.—Any agency or business entity that violates, proposes to violate, or has violated this subtitle may be enjoined from further violations by a court of competent jurisdiction.

(c) OTHER RIGHTS AND REMEDIES.—The rights and remedies available under this subtitle are cumulative and shall not affect any other rights and remedies available under law.

(d) FRAUD ALERT.—Section 605A(b)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681c–1(b)(1)) is amended by inserting ", or evidence that the consumer has received notice that the consumer's financial information has or may have been compromised," after "identity theft report".

(e) INJUNCTIVE ACTIONS BY THE ATTORNEY GENERAL.—Whenever it appears that a business entity or agency to which this subtitle applies has engaged, is engaged, or is about to engage, in any act or practice constituting a violation of this subtitle, the Attorney General may bring a civil action in an appropriate district court of the United States to—

(1) enjoin such act or practice;

(2) enforce compliance with this subtitle;

(3) obtain damages—

(A) in the sum of actual damages, restitution, and other compensation on behalf of the affected residents of a State; and

(B) punitive damages, if the violation is willful or intentional; and

(4) obtain such other relief as the court determines to be appropriate.

SEC. 428. ENFORCEMENT BY STATE ATTORNEYS GENERAL.

(a) IN GENERAL.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State, or any State or local law enforcement agency authorized by the State attorney general or by State statute to prosecute violations of consumer protection law, has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any agency or business entity in a practice that is prohibited under this subtitle, the State, as parens patriae on behalf of the residents of the State, or the State or local law enforcement agency on behalf of the residents of the agency's jurisdiction, may bring a civil action on behalf of the residents of the State or jurisdiction in a district court of the United States of appropriate jurisdiction or any other court of competent jurisdiction, including a State court, to—

(A) enjoin that practice;

(B) enforce compliance with this subtitle;

(C) obtain damages, restitution, or other compensation on behalf of residents of the State; or

(D) obtain such other relief as the court may consider to be appropriate.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Attorney General of the United States—

(i) written notice of the action; and

(ii) a copy of the complaint for the action.

(B) EXEMPTION.—

(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subtitle, if the State attorney general determines that it is not feasible to provide the notice described in such subparagraph before the filing of the action.

(ii) NOTIFICATION.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Attorney General at the time the State attorney general files the action.

(b) FEDERAL PROCEEDINGS.—Upon receiving notice under subsection (a)(2), the Attorney General shall have the right to—

(1) move to stay the action, pending the final disposition of a pending Federal proceeding or action;

(2) intervene in an action brought under subsection (a)(2); and

(3) file petitions for appeal.

(c) PENDING PROCEEDINGS.—If the Attorney General has instituted a proceeding or action for a violation of this subtitle or any regulations thereunder, no attorney general of a State may, during the pendency of such proceeding or action, bring an action under this subtitle against any defendant named in such criminal proceeding or civil action for any violation that is alleged in that proceeding or action.

(d) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this subtitle regarding notification shall be construed to prevent an attorney general of a State from exercising the powers conferred on such attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(e) VENUE; SERVICE OF PROCESS.—

(1) VENUE.—Any action brought under subsection (a) may be brought in—

(A) the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code; or

(B) another court of competent jurisdiction.

(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

(f) NO PRIVATE CAUSE OF ACTION.—Nothing in this subtitle establishes a private cause of action against a data broker for violation of any provision of this subtitle.

SEC. 429. EFFECT ON FEDERAL AND STATE LAW.

The provisions of this subtitle shall supersede any other provision of Federal law or any provision of law of any State relating to notification of a security breach, except as provided in section 424(b).

SEC. 430. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to cover the costs incurred by the United States Secret Service to carry out investigations and risk assessments of security breaches as required under this subtitle.

SEC. 431. REPORTING ON RISK ASSESSMENT EXEMPTION.

The United States Secret Service shall report to Congress not later than 18 months after the date of enactment of this Act, and upon the request by Congress thereafter, on the number and nature of the security breaches described in the notices filed by those business entities invoking the risk assessment exemption under section 422(b) and the response of the United States Secret Service to those notices.

SEC. 432. EFFECTIVE DATE.

This subtitle shall take effect on the expiration of the date which is 90 days after the date of enactment of this Act.

TITLE V—GOVERNMENT ACCESS TO AND USE OF COMMERCIAL DATA

SEC. 501. GENERAL SERVICES ADMINISTRATION REVIEW OF CONTRACTS.

(a) IN GENERAL.—In considering contract awards totaling more than $500,000 and entered into after the date of enactment of this Act with data brokers, the Administrator of the General Services Administration shall evaluate—

(1) the data privacy and security program of a data broker to ensure the privacy and security of data containing personally identifiable information, including whether such program adequately addresses privacy and security threats created by malicious software or code, or the use of peer-to-peer file sharing software;

(2) the compliance of a data broker with such program;

(3) the extent to which the databases and systems containing personally identifiable information of a data broker have been compromised by security breaches; and

(4) the response by a data broker to such breaches, including the efforts by such data broker to mitigate the impact of such breaches.

(b) COMPLIANCE SAFE HARBOR.—The data privacy and security program of a data broker shall be deemed sufficient for the purposes of subsection (a), if the data broker complies with or provides protection equal to industry standards, as identified by the Federal Trade Commission, that are applicable to the type of personally identifiable information involved in the ordinary course of business of such data broker.

(c) PENALTIES.—In awarding contracts with data brokers for products or services related to access, use, compilation, distribution, processing, analyzing, or evaluating personally identifiable information, the Administrator of the General Services Administration shall—

(1) include monetary or other penalties—

(A) for failure to comply with subtitles A and B of title IV of this Act; or

(B) if a contractor knows or has reason to know that the personally identifiable information being provided is inaccurate, and provides such inaccurate information; and

(2) require a data broker that engages service providers not subject to subtitle A of title IV for responsibilities related to sensitive personally identifiable information to—

(A) exercise appropriate due diligence in selecting those service providers for responsibilities related to personally identifiable information;

(B) take reasonable steps to select and retain service providers that are capable of maintaining appropriate safeguards for the security, privacy, and integrity of the personally identifiable information at issue; and

(C) require such service providers, by contract, to implement ad maintain appropriate measures designed to meet the objectives and requirements in title IV.

(d) LIMITATION.—The penalties under subsection (c) shall not apply to a data broker providing information that is accurately and completely recorded from a public record source.

SEC. 502. REQUIREMENT TO AUDIT INFORMATION SECURITY PRACTICES OF CONTRACTORS AND THIRD PARTY BUSINESS ENTITIES.

Section 3544(b) of title 44, United States Code, is amended—

(1) in paragraph (7)(C)(iii), by striking ''and'' after the semicolon;

(2) in paragraph (8), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(9) procedures for evaluating and auditing the information security practices of contractors or third party business entities supporting the information systems or operations of the agency involving personally identifiable information (as that term is defined in section 3 of the Personal Data Privacy and Security Act of 2005) and ensuring remedial action to address any significant deficiencies.''.

SEC. 503. PRIVACY IMPACT ASSESSMENT OF GOVERNMENT USE OF COMMERCIAL INFORMATION SERVICES CONTAINING PERSONALLY IDENTIFIABLE INFORMATION.

(a) IN GENERAL.—Section 208(b)(1) of the E-Government Act of 2002 (44 U.S.C. 3501 note) is amended—

(1) in subparagraph (A)(i), by striking ''or''; and

(2) in subparagraph (A)(ii), by striking the period and inserting ''; or''; and

(3) by inserting after clause (ii) the following:

''(iii) purchasing or subscribing for a fee to personally identifiable information from a data broker (as such terms are defined in section 3 of the Personal Data Privacy and Security Act of 2005).''.

(b) LIMITATION.—Notwithstanding any other provision of law, commencing 1 year after the date of enactment of this Act, no Federal department or agency may enter into a contract with a data broker to access for a fee any database consisting primarily of personally identifiable information concerning United States persons (other than news reporting or telephone directories) unless the head of such department or agency—

(1) completes a privacy impact assessment under section 208 of the E-Government Act of 2002 (44 U.S.C. 3501 note), which shall subject to the provision in that Act pertaining to sensitive information, include a description of—

(A) such database;

(B) the name of the data broker from whom it is obtained; and

(C) the amount of the contract for use;

(2) adopts regulations that specify—

(A) the personnel permitted to access, analyze, or otherwise use such databases;

(B) standards governing the access, analysis, or use of such databases;

(C) any standards used to ensure that the personally identifiable information accessed, analyzed, or used is the minimum necessary to accomplish the intended legitimate purpose of the Federal department or agency;

(D) standards limiting the retention and redisclosure of personally identifiable information obtained from such databases;

(E) procedures ensuring that such data meet standards of accuracy, relevance, completeness, and timeliness;

(F) the auditing and security measures to protect against unauthorized access, analysis, use, or modification of data in such databases;

(G) applicable mechanisms by which individuals may secure timely redress for any adverse consequences wrongly incurred due to the access, analysis, or use of such databases;

(H) mechanisms, if any, for the enforcement and independent oversight of existing or planned procedures, policies, or guidelines; and

(I) an outline of enforcement mechanisms for accountability to protect individuals and the public against unlawful or illegitimate access or use of databases; and

(3) incorporates into the contract or other agreement totaling more than $500,000, provisions—

(A) providing for penalties—

(i) for failure to comply with title IV of this Act; or

(ii) if the entity knows or has reason to know that the personally identifiable information being provided to the Federal department or agency is inaccurate, and provides such inaccurate information.

(B) requiring a data broker that engages service providers not subject to subtitle A of title IV for responsibilities related to sensitive personally identifiable information to—

(i) exercise appropriate due diligence in selecting those service providers for responsibilities related to personally identifiable information;

(ii) take reasonable steps to select and retain service providers that are capable of maintaining appropriate safeguards for the security, privacy, and integrity of the personally identifiable information at issue; and

(iii) require such service providers, by contract, to implement ad maintain appropriate measures designed to meet the objectives and requirements in title IV.

(c) LIMITATION ON PENALTIES.—The penalties under paragraph (3)(A) shall not apply to a data broker providing information that is accurately and completely recorded from a public record source.

(d) INDIVIDUAL SCREENING PROGRAMS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, commencing one year after the date of enactment of this Act, no Federal department or agency may use commercial databases or contract with a data broker to implement an individual screening program unless such program is—

(A) congressionally authorized; and

(B) subject to regulations developed by notice and comment that—

(i) establish a procedure to enable individuals, who suffer an adverse consequence because the screening system determined that they might pose a security threat, to appeal such determination and correct information contained in the system;

(ii) ensure that Federal and commercial databases that will be used to establish the identity of individuals or otherwise make assessments of individuals under the system will not produce a large number of false positives or unjustified adverse consequences;

(iii) ensure the efficacy and accuracy of all of the search tools that will be used and ensure that the department or agency can make an accurate predictive assessment of those who may constitute a threat;

(iv) establish an internal oversight board to oversee and monitor the manner in which the system is being implemented;

(v) establish sufficient operational safeguards to reduce the opportunities for abuse;

(vi) implement substantial security measures to protect the system from unauthorized access;

(vii) adopt policies establishing the effective oversight of the use and operation of the system; and

(viii) ensure that there are no specific privacy concerns with the technological architecture of the system; and

(C) coordinated with the Terrorist Screening Center or any such successor organization.

(2) DEFINITION.—As used in this subsection, the term ''individual screening program''—

(A) means a system that relies on personally identifiable information from commercial databases to—

(i) evaluate all or most individuals seeking to exercise a particular right or privilege under Federal law; and

(ii) determine whether such individuals are on a terrorist watch list or otherwise pose a security threat; and

(B) does not include any program or system to grant security clearances.

(e) STUDY OF GOVERNMENT USE.—

(1) SCOPE OF STUDY.—Not later than 180 days after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study and audit and prepare a report on Federal agency use of data brokers or commercial databases containing personally identifiable information, including the impact on privacy and security, and the extent to which Federal contracts include sufficient provisions to ensure privacy and security protections, and penalties for failures in privacy and security practices.

(2) REPORT.—A copy of the report required under paragraph (1) shall be submitted to Congress.

SEC. 504. IMPLEMENTATION OF CHIEF PRIVACY OFFICER REQUIREMENTS.

(a) DESIGNATION OF THE CHIEF PRIVACY OFFICER.—Pursuant to the requirements under section 522 of the Transportation, Treasury,

Independent Agencies, and General Government Appropriations Act, 2005 (Division H of Public Law 108–447; 118 Stat. 3199) that each agency designate a Chief Privacy Officer, the Department of Justice shall implement such requirements by designating a department-wide Chief Privacy Officer, whose primary role shall be to fulfill the duties and responsibilities of Chief Privacy Officer and who shall report directly to the Deputy Attorney General.

(b) DUTIES AND RESPONSIBILITIES OF CHIEF PRIVACY OFFICER.—In addition to the duties and responsibilities outlined under section 522 of the Transportation, Treasury, Independent Agencies, and General Government Appropriations Act, 2005 (Division H of Public Law 108–447; 118 Stat. 3199), the Department of Justice Chief Privacy Officer shall—

(1) oversee the Department of Justice's implementation of the requirements under section 603 to conduct privacy impact assessments of the use of commercial data containing personally identifiable information by the Department;

(2) promote the use of law enforcement technologies that sustain privacy protections, and assure that the implementation of such technologies relating to the use, collection, and disclosure of personally identifiable information preserve the privacy and security of such information; and

(3) coordinate with the Privacy and Civil Liberties Oversight Board, established in the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458), in implementing paragraphs (1) and (2) of this subsection.

Mr. LEAHY. Mr. President, today we reintroduce the Specter-Leahy Personal Data Privacy and Security Act of 2005.

Earlier this year, Senator SPECTER and I introduced a comprehensive bill to bring urgently needed reforms to protect Americans' privacy and to secure their personal data. Chairman SPECTER has shown great leadership on this issue, and I appreciate his dedication to solving these challenging problems through his willingness to work together to enhance this legislation as we have deemed appropriate. Since initial introduction of our bill, we have worked with Senator FEINSTEIN and other members of the Judiciary Committee to address areas of concern and to perfect the bill. We have also worked closely with a wide variety of stakeholders and experts in these issues, which has also improved the bill.

I especially thank Senator FEINSTEIN for her dedication and resolve to address these difficult data security and privacy concerns. I commend her input and leadership, and I am pleased that she is joining as an original cosponsor of this revised bill. I also thank Senator FEINGOLD for his commitment to ensuring that the government also acts responsibly in its use of our personal information and appreciate his support as an original cosponsor. This is a good bill—carefully calibrated to help remedy the problems we set out to address—and I look forward to continuing our efforts to pass effective legislation.

We have teamed together and applied our collective wisdom to sort through these issues with care and precision. We took the time needed to develop well-balanced, focused legislation that provides strong protections where necessary, and that offers strong penalties and consequences as disincentives for those who fail to protect Americans' most personal information.

Reforms like these are long overdue. As we look toward the end of the year, these necessary reforms should be included in our domestic priorities so that we can achieve some positive changes in areas that affect the everyday lives of Americans.

First our bill requires data brokers to let people know what sensitive personal information they have about them, and to allow people to correct inaccurate information. These principles have precedent from the credit report context, and we have adapted them in a way that makes sense for the data brokering industry. This is a simple matter of fairness.

Second, we would require companies that have databases with sensitive personal information on Americans to establish and implement data privacy and security programs. In the digital age, any company that wants to be trusted by the public must earn that trust by vigilantly protecting the databases they use and maintain which contain Americans' private data. They also have a responsibility in the next link in the security chain, to make sure that contractors hired to process data are adequately vetted to keep the personal information in these databases secure. This is increasingly important as Americans' personal information more and more is outsourced for processing overseas and beyond U.S. laws.

Third, our bill requires notice when sensitive personal information has been compromised. The American people have a right to know when they are at risk because of corporate failures to protect their data, or when a criminal has infiltrated data systems. The notice rules in our bill were carefully crafted to ensure that the trigger for notice is tied to ''significant risk of harm'' with appropriate checks-and-balances, in order to make sure that companies do not underreport. We also recognize important fraud prevention techniques that already exist. But our priority has been to make sure that victims have critical information as a roadmap that offers the assistance necessary to protect themselves, their families and their financial well-being.

Finally, our bill addresses the government's use of personal data. We are living in a world in which our government increasingly is turning to the private sector to get personal data the government could not legally collect on its own without oversight and appropriate protections. This bill would place privacy and security front and center in evaluating whether data brokers can be trusted with government contracts that involve sensitive information about the American people. It would require contract reviews that include these considerations, audits to ensure good practice, and contract penalties for failure to protect data privacy and security.

This legislation meets other key goals. It provides tough monetary and criminal penalties for compromising personal data or failing to provide necessary protections. This creates an incentive for companies to protect personal information, especially when there is no commercial relationship between individuals and companies using their data. We also would authorize an additional $100 million over four years to help state law enforcement agencies fight misuse of personal information.

This is a solid bill—a comprehensive bill—that not only deals with the need to provide Americans notice when they have already been hurt, but that also deals with the underlying problem of lax security and lack of accountability in dealing with the public's most personal and private information.

I commend Senator SPECTER for his leadership on this emerging problem. Senator FEINSTEIN and Senator FEINGOLD have long recognized the importance of data privacy and security, and I appreciate their support in this effort and on this bill. Other members on the Commerce Committee, such as Senator NELSON and Senator CANTWELL, and on the Banking Committee, have also taken great strides in these areas as well, and we look forward to working closely with them to pass legislation this year.

By Mr. BINGAMAN (for himself, Mr. SPECTER, Mr. NELSON of Nebraska, Mr. HARKIN and Mr. ROCKEFELLER):

S. 1793. A bill to extend certain apportionments to primary airports; to the Committee on Commerce, Science, and Transportation.

Mr. BINGAMAN. Mr. President, I rise today with my colleague Senator SPECTER to introduce legislation that is important to a number of rural communities located in over half of the States. Our legislation will ensure that over 50 mostly rural airports will not see an 85 percent reduction in their annual grant from the Federal Aviation Administration's Airport Improvement Program.

I think all Senators are well aware of the wide-ranging impact the tragic events of September 11, 2001, have had throughout our economy. One of the hardest hit industries has been commercial aviation, which is continuing to feel the effects in terms of higher costs and loss of passengers. Nowhere has the decline in commercial aviation been felt more than in small and rural communities.

All across America, small communities already face growing hurdles to promoting their economic growth and development. Today, many rural areas lack access to interstate or even four-lane highways, railroads or broadband telecommunications. Business development in rural areas frequently depends on the quality of their airports and the

availability of scheduled air service. For small communities, airports often provide the critical link to the national and international transportation system.

Ensuring small communities have the resources they need to preserve this vital airport infrastructure in rural areas is the purpose of our bill.

Under current formulae for distributing Federal funds, every airport that has more than 10,000 annual passenger boardings is guaranteed an entitlement grant from the FAA's AIP of at least $1 million per year. These are called ''primary'' airports. Airports with less than 10,000 annual boardings receive $150,000. Unfortunately, there are a handful of primary airports that have had their annual boardings drop below 10,000 as a result of the effects of 9/11. One of these airports is the Roswell International Air Center in my State of New Mexico.

For the passed two years, Congress has permitted these so called ''virtual primary'' airports to retain their full $1 million entitlement, even though their annual boardings had dropped below the 10,000 threshold as a direct result of 9/11. This two-year waiver was included in section 146 of the Vision 100 aviation reauthorization act. (P.L. 108–176).

Unfortunately, based on preliminary boarding data for 2004, there are still about 50 primary airports that have not yet regained their previous boarding levels. As a result, these airports will face a cut in their annual entitlement in FY2006 from $1 million to $150,000.

I ask unanimous consent that a list of these likely virtual primary airports for fiscal year 2006 be printed in the RECORD.

LIKELY VIRTUAL PRIMARY AIRPORTS FOR FY2006

Alaska—Fort Yukon, Gustavus, Haines, Iliamna, Kodiak, Metlakatla, Skagway, Merrill Field* and Manokotak*.
California—Imperial, Santa Rosa, Visalia.
Connecticut—Groton-New London.
Florida—Naples.
Georgia—Athens.
Iowa—Burlington, Fort Dodge.
Illinois—Belleville, Quincy.
Indiana—Lafayette.
Kansas—Garden City, Salina.
Kentucky—Owensboro.
Maine—Rockland*.
Massachusetts—Worcester.
Michigan—Alpena, Escanaba.
Minnesota—Grand Rapids, Hibbing.
Montana—Sidney-Richland*.
North Carolina—Hickory, Pinehurst/Southern Pines.
Nebraska—Grand Island, Kearney, Scottsbluff.
New Hampshire—Lebanon.
New Mexico—Roswell.
Ohio—Youngstown/Warren.
Oregon—Pendleton.
Pennsylvania—Altoona, Bradford, Brookville, Lancaster, and Reading*.
Rhode Island—Block Island, Westerly.
Tennessee—Jackson.
Utah—Cedar City.
Virginia—Weyers Cave.
Washington—Anacortes, Moses Lake, and Port Angeles*.
West Virginia—Clarksburg*.
Wyoming—Laramie.

*These primary airports where above 10,000 boardings in CY2003 but could lose their $1 million AIP entitlement based on the preliminary CY2004 enplanements.

List compiled from preliminary FAA data.

The good news is a number of airports that were virtual primary airports in fiscal year 2005 have seen their annual boardings increase back above 10,000 per year. However, for this handful of airports that were still below 10,000 boardings in 2004, I believe it is appropriate that they have another year to regain their status as primary airports and not suffer the loss of 85 percent of their fiscal year 2006 annual entitlement grant for airport improvement projects.

Thus, our bill provides a simple one year extension of the existing law to preserve the airports' current level of federal funding and give these mostly rural communities a little breathing room while the airline industry recovers from the effects of 9/11.

I ask unanimous consent that a letter and resolution from the City of Roswell and the text of the bill be printed in the RECORD.

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

CITY OF ROSWELL,
Roswell, NM, September 21, 2005.

Hon. JEFF BINGAMAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR BINGAMAN: The purpose of this correspondence is to, on behalf of the City of Roswell, request your assistance on an extremely important matter. Your time, as well as that of your staff, particularly Dan Alpert, has been and will continue to be most appreciated.

Attached is a resolution passed by our City Council on Thursday, September 8th pertaining to the pending loss of our annual $1 mil entitlement funds. Unless there is action involving extending the passenger boarding enplanement waiver as suggested, the City will only be eligible for $150,000 to use for airport improvements beginning with the FY 06 Budget. As far as we know we are the only Airport affected in the State of New Mexico, a fact that may have been mentioned to you by Councilor Judy Stubbs when she visited with you recently.

Our request of you is that if you can influence, beginning with the Senate Commerce and Transportation Committee, an amendment to the FY 06 Budget to extend the enplanement waiver through the FY 07 Budget, we would be most grateful. Suffice is to say, the loss of almost $900,000 each year will be devastating to our Airport and our economy

As is the case every time we approach you for assistance, we are grateful for your concern and whatever assistance you feel you can provide us.

Thank you again.

Sincerely,

BILL B. OWEN,
Mayor.

RESOLUTION NO. 05–27

A RESOLUTION SUPPORTING AN EXTENSION FOR PASSENGER BOARDING ENPLANEMENTS

Whereas, annual Federal entitlements under the Airport Improvemnt Program are based on passenger boarding; and

Whereas, in the wake of 9/11, a number of airports, including the Roswell International Air Center, saw a dramatic drop in passenger boardings; and

Whereas, current Federal legislation provides airports that have over 10,000 annual boardings $1 million per year, and airports with boardings less than 10,000 annually $150,000; and

Whereas, in November 2001, the President signed P.L. 107–71 which allowed airports that had suffered declines in passenger boardings to use the greater of either the 2000 or 2001 boardings in calculating their FY2003 entitlements; and

Whereas, the Roswell International Air Center is one of over 50 airports in the United States that benefitted from P.L. 107–71, retaining its annual $1 million entitlement, even when passenger boardings dropped below 10,000; and

Whereas, Congress extended the exception for two additional years, FY2004 and FY2005 (P.L. 108–176, sec. 146); and

Whereas, Roswell International Air Center enplanements are increasing and coming close to 1O,OOO and Now, Therefore be it

Resolved, The City of Roswell seeks the continued support from the New Mexico Congressional Delegation to persuade the Senate Commerce and Transportation Committee to extend the exception through FY2007 and encourages the citizens of Roswell and Eastern New Mexico to support the local air service. Further be it

Resolved by the governing body of the City of Roswell, New Mexico, the Roswell City Council, to support whatever means and energy is necessary to extend the passenger boarding enplanement waiver through FY2007.

S. 1793

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

SECTION 1. EXTENSION OF APPORTIONMENTS.

Section 47114(c)(1)(F) of title 49, United States Code, is amended by striking ''and 2005'' each place it appears in the heading and inserting '', 2005, and 2006''.

By Mr. DURBIN (for himself and Mr. OBAMA):

S. 1794. A bill to establish a Strategic Gasoline and Fuel Reserve; to the Committee on Energy and Natural Resources.

Mr. DURBIN. 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. 1794

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 ''Strategic Gasoline and Fuel Reserve Act of 2005''.

SEC. 2. STRATEGIC GASOLINE AND FUEL RESERVE.

(a) IN GENERAL.—Title I of the Energy Policy and Conservation Act (42 U.S.C. 6201 et seq.) is amended—

(1) by redesignating part E (42 U.S.C. 6251 et seq.) as part F;

(2) by redesignating section 191 (42 U.S.C. 6251) as section 199; and

(3) by inserting after part D (42 U.S.C. 6250 et seq.) the following:

''PART E—STRATEGIC GASOLINE AND FUEL RESERVE

''SEC. 191. DEFINITIONS.

''In this part:

''(1) GASOLINE.—The term 'gasoline' means regular unleaded gasoline.

''(2) RESERVE.—The term 'Reserve' means the Strategic Gasoline and Fuel Reserve established under section 192(a).

''SEC. 192. ESTABLISHMENT.

''(a) IN GENERAL.—Notwithstanding any other provision of this Act, the Secretary shall establish, maintain, and operate a Strategic Gasoline and Fuel Reserve.

''(b) NOT COMPONENT OF STRATEGIC PETROLEUM RESERVE.—The Reserve is not a component of the Strategic Petroleum Reserve established under part B.

''(c) CAPACITY.—The Reserve shall contain not more than—

''(1) 40,000,000 barrels of gasoline; and

''(2) 7,500,000 barrels of jet fuel.

''(d) RESERVE SITES.—

''(1) SITING.—Not later than 1 year after the date of enactment of this Act, the Secretary shall determine not less than 3 Reserve sites, and not more than 5 Reserve sites, throughout the United States that are regionally strategic.

''(2) OPERATION.—The Reserve sites described in paragraph (1) shall be operational not later than 2 years after the date of enactment of this Act.

''(e) SECURITY.—In establishing the Reserve under this section, the Secretary shall obtain the concurrence of the Secretary of Homeland Security with respect to physical design security and operational security.

''(f) AUTHORITY.—In carrying out this part, the Secretary may—

''(1) purchase, contract for, lease, or otherwise acquire, in whole or in part, storage and related facilities and storage services;

''(2) use, lease, maintain, sell, or otherwise dispose of storage and related facilities acquired under this part;

''(3) acquire by purchase, exchange, lease, or other means gasoline and fuel for storage in the Reserve;

''(4) store gasoline and fuel in facilities not owned by the United States; and

''(5) sell, exchange, or otherwise dispose of gasoline and fuel from the Reserve, including to maintain—

''(A) the quality or quantity of the gasoline or fuel in the Reserve; or

''(B) the operational capacity of the Reserve.

''(g) FILL DATE.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall complete the process of filling the Reserve under this section by March 1, 2008.

''(2) EXTENSIONS.—The President may extend the deadline established under paragraph (1) if—

''(A) the President determines that filling the Reserve within that deadline would cause an undue economic burden on the United States; and

''(B) the President receives approval from Congress.

''SEC. 193. RELEASE OF GASOLINE AND FUEL.

''(a) IN GENERAL.—The Secretary shall release gasoline or fuel from the Reserve only if—

''(1) the President finds that there is a severe fuel supply disruption by finding that—

''(A) a regional or national supply shortage of gasoline or fuel of significant scope and duration has occurred;

''(B) a substantial increase in the price of gasoline or fuel has resulted from the shortage;

''(C) the price increase is likely to cause a significant adverse impact on the national economy; and

''(D) releasing gasoline or fuel from the Reserve would assist directly and significantly in reducing the adverse impact of the shortage; or

''(2)(A) the Governor of a State submits to the Secretary a written request for a release from the Reserve that contains a finding that—

''(i) a regional or statewide supply shortage of gasoline or fuel of significant scope and duration has occurred;

''(ii) a substantial increase in the price of gasoline or fuel has resulted from the shortage; and

''(iii) the price increase is likely to cause a significant adverse impact on the economy of the State; and

''(B) the Secretary concurs with the findings of the Governor under subparagraph (A) and determines that—

''(i) a release from the Reserve would mitigate gasoline or fuel price volatility in the State;

''(ii) a release from the Reserve would not have an adverse effect on the long-term economic viability of retail gasoline or fuel markets in the State and adjacent States; and

''(iii) a release from the Reserve would not suppress prices below long-term market trend levels.

''(b) PROCEDURE.—

''(1) RESPONSE OF SECRETARY.—The Secretary shall respond to a request submitted under subsection (a)(2) not later than 5 days after receipt of the request by—

''(A) approving the request;

''(B) denying the request; or

''(C) requesting additional supporting information.

''(2) RELEASE.—The Secretary shall establish procedures governing the release of gasoline or fuel from the Reserve in accordance with this subsection.

''(3) REQUIREMENTS.—

''(A) ELIGIBLE ENTITY.—In this paragraph, the term 'eligible entity' means an entity that is customarily engaged in the sale or distribution of gasoline or fuel.

''(B) SALE OR DISPOSAL FROM RESERVE.—The procedures established under this subsection shall provide that the Secretary may—

''(i) sell gasoline or fuel from the Reserve to an eligible entity through a competitive process; or

''(ii) enter into an exchange agreement with an eligible entity under which the Secretary receives a greater volume of gasoline or fuel as repayment from the eligible entity than the volume provided to the eligible entity.

''(c) CONTINUING EVALUATION.—The Secretary shall conduct a continuing evaluation of the drawdown and sales procedures established under this section.

''SEC. 194. REPORTS.

''(a) GASOLINE AND FUEL.—Not later than 45 days after the date of enactment of this section, the Secretary shall submit to Congress and the President a plan describing—

''(1) the acquisition of storage and related facilities or storage services for the Reserve, including the use of storage facilities not currently in use or not currently used to capacity;

''(2) the acquisition of gasoline and fuel for storage in the Reserve;

''(3) the anticipated methods of disposition of gasoline and fuel from the Reserve;

''(4) the estimated costs of establishment, maintenance, and operation of the Reserve;

''(5) efforts that the Department will take to minimize any potential need for future drawdowns from the Reserve; and

''(6) actions to ensure the quality of the gasoline and fuel in the Reserve are maintained.

''(b) NATURAL GAS AND DIESEL.—Not later than 90 days after the date of enactment of this section, the Secretary shall submit to Congress a report describing the feasibility of creating a natural gas and diesel reserve similar to the Reserve under this part.

''SEC. 195. STRATEGIC GASOLINE AND FUEL RESERVE FUND.

''(a) ESTABLISHMENT.—There is established in the Treasury of the United States a revolving fund, to be known as the 'Strategic Gasoline and Fuel Reserve Fund' (referred to in this section as the 'Fund'), consisting of—

''(1) such amounts as are appropriated to the Fund under subsection (b);

''(2) such amounts as are appropriated to the Fund under section 196; 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 amounts collected as receipts and received in the Treasury from the sale, exchange, or other disposition of gasoline or fuel from the Reserve.

''(c) EXPENDITURES FROM FUND.—On request by the Secretary and without the need for further appropriation, the Secretary of the Treasury shall transfer from the Fund to the Secretary such amounts as the Secretary determines are necessary to carry out activities under this part, to remain available until expended.

''(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. 196. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated such sums as are necessary to carry out this part, to remain available until expended.''.

SEC. 3. CONFORMING AMENDMENTS.

The table of contents for title I of the Energy Policy and Conservation Act (42 U.S.C. 6201 note) is amended by striking the matter relating to part D and inserting the following:

''PART D—NORTHEAST HOME HEATING OIL RESERVE

''Sec. 181. Establishment.
''Sec. 182. Authority.
''Sec. 183. Conditions for release; plan.
''Sec. 184. Northeast home heating oil reserve account.
''Sec. 185. Exemptions.
''Sec. 186. Authorization of appropriations.

''PART E—STRATEGIC GASOLINE AND FUEL RESERVE

''Sec. 191. Definitions.
''Sec. 192. Establishment.

''Sec. 193. Release of gasoline and fuel.
''Sec. 194. Reports.
''Sec. 195. Strategic Gasoline and Fuel Reserve Fund.
''Sec. 196. Authorization of appropriations.

''PART F—EXPIRATION

''Sec. 199. Expiration.''.

By Mr. JOHNSON (for himself, Ms. CANTWELL, Mr. LEAHY, Mr. CORZINE, Mrs. MURRAY, Mr. SALAZAR, Mr. REED, and Ms. MIKULSKI):

S. 1795. A bill to amend the Social Security Act to protect Social Security cost-of-living adjustments (COLA); to the Committee on Finance.

Mr. JOHNSON. Mr. President, today I am joined by several of my colleagues in the Senate to introduce the Social Security COLA Protection Act of 2005. This legislation will provide some relief to seniors from rising Medicare premiums, and ensure that their Social Security cost-of-living-adjustments or COLAs are made available for other essential needs such as food and housing.

I first thank Senators CANTWELL, LEAHY, CORZINE, MURRAY, SALAZAR, REED and MIKULSKI in joining me in this effort. Last Congress several colleagues joined Senator Daschle and myself to introduce a similar bill. Representative HERSETH in the House has introduced the companion bill today, and I thank her as well for her leadership on this and other important issues to seniors in South Dakota.

In my home State, 1 in 6 people are Medicare beneficiaries. That represents 16 percent of our total State population. Many of these individuals live on modest fixed incomes and have to pay close attention to the checks they write and the groceries they buy every month. The seniors of my State are people that worked very hard all of their lives, as farmers, small business owners, teachers and parents. In old age, all they are hoping for is an opportunity to live out their years with a basic level of comfort and certainty.

Unfortunately, as the cost of health care continues to rise at alarming rates, it becomes more and more difficult for seniors to have a sense of security during their retirement years. According to the Kaiser Family Foundation, U.S. spending on health care was approximately $1.7 trillion in 2003, almost two and a half times the $696 billion spent in 1990. That $1.7 trillion represents over 15 percent of the gross domestic product. While spending did level off in 2004, according to an analysis by the Center for Health System Change, overall health spending growth outpaced overall economic growth by 2.6 percent in 2004.

Increases in health care costs hit the pocketbooks of every American. Recently the Centers for Medicare and Medicaid Services or CMS announced that the Medicare Part B premiums, which pay for seniors' doctor visits and other nonhospital services, will rise 13 percent in 2006. The 2006 increase will mark the third year in a row that beneficiaries will be subjected to a rise in their premiums of more than 10 percent.

These premium increases will come at the same time that many Medicare beneficiaries will start to pay an additional premium for the Part D prescription drug program. Those premiums will range, averaging from $20 to $35 a month. Both Part D and Part B premiums will be taken from a senior's Social Security check.

While seniors can expect a modest increase in their Social Security COLA every year, that increase has not kept up with the pace of increased health care costs and specifically Medicare premium costs. This is unfortunate, and does force many seniors to have to face the harsh reality every year that their fixed income is shrinking as their health costs go up. This October we should learn the Social Security COLA for 2006, and I fear that the combination of a modest increase and increased costs for participating in Medicare Part D are going to be difficult to adjust to for many seniors in South Dakota.

This is why I have introduced the Social Security COLA Protection Act of 2005, which will mandate that no more than 25 percent of a senior's COLA be absorbed by the increase in Medicare premiums. This is important legislation that will protect the financial security of many retirees in my home State and across the country. I thank all of the Members who have introduced this bill with me today and urge the rest of my colleagues to join me in this effort.

By Mrs. MURRAY (for herself, Mr. LEAHY, Mr. DAYTON, Mr. DODD, and Mr. CORZINE):

S. 1796. A bill to promote the economic security and safety of victims of domestic violence, dating violence, sexual assault, or stalking, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mrs. MURRAY. Mr. President, along with my colleagues, Senators LEAHY, DAYTON, DODD and CORZINE, I am introducing legislation that, if adopted, will protect and even save the lives of victims of domestic or sexual violence and their families. This bill, the Security and Financial Empowerment (SAFE) Act, addresses the impact of domestic and sexual violence that extends far beyond the moment the abuse occurs.

I am introducing this legislation today as a tribute to Paul and Sheila Wellstone, who were such champions for victims of domestic violence. Senator Wellstone and I first introduced this legislation together in 1998. Paul's desk was just behind me here on the Senate floor. I can still see him behind me waving his arms and making the case for people who have no voice.

Not long ago, domestic violence was considered a family problem, and many victims had nowhere to turn for help.

Today, thanks to the Violence Against Women Act (VAWA) we have made great progress in fighting these violent crimes. I worked to help pass this landmark legislation in 1994 and I am proud to be a part of reauthorizing it this year. But although VAWA has been a great success in coordinating victims' advocates, social service providers and law enforcement professionals to meet immediate challenges, there is still work to be done.

As someone who has spent my entire public life working with victims and experts to fight domestic violence, I am offering this bill based on what these courageous individuals have told me they need. Financial insecurity is a major factor in ongoing domestic violence. Too often, victims who are not economically self sufficient are forced to choose between protecting themselves and their children and keeping a roof over their heads. It is critical that we help guarantee the economic security of victims of domestic or sexual violence so that they can provide permanent safety for themselves and their families and so that they are not forced, because of economic dependence, to stay in an abusive relationship.

In order to do this, we must ensure that victims of domestic or sexual violence can seek the help they need without the fear of losing their jobs. Too many victims have been fired for missing work in order to find shelter or get a court restraining order, even after receiving permission from their employers. Today, a woman can use the Family and Medical Leave Act to care for a sick or injured spouse, but she cannot use that act to seek protection from her abuser. The SAFE Act will allow victims to take time off from work without penalty in order to make court appearances, seek legal assistance, and get help with safety planning. For too many victims, access to these essential services can mean the difference between life and death.

Unfortunately, some victims of domestic or sexual violence are forced to leave their jobs and relocate to protect themselves and their families. We must ensure the continued financial security of these victims through the use of unemployment benefits. Currently, a woman can receive unemployment benefits if she leaves her job because her husband must relocate. But if that same woman is fleeing her husband's abuse, in many States she cannot receive the same benefits. Currently, 28 States and the District of Columbia provide some type of unemployment assistance to victims of domestic or sexual violence. Our bill will ensure that assistance is available in every State, so that no woman has to make the tragic choice of risking her safety to protect her livelihood.

Moreover, victims must not be made silent by the fear of discrimination in employment and insurance. Punishing victims for circumstances beyond their control is wrong and only helps abusers in their efforts to control their victims. Denying a woman employment

because she is a victim of domestic violence robs her of the economic security she needs to escape a dangerous relationship. Making insurance coverage decisions based on a history of abuse only encourages women to lie about their victimization and avoid seeking help until it is too late. The SAFE Act prohibits discrimination in employment and insurance based on domestic or sexual violence, to ensure that victims are never punished for their abusers' crimes.

Sadly, domestic violence and poverty are inextricably linked, and many victims of domestic or sexual violence are also recipients of Temporary Aid to Needy Families (TANF). Work requirements in this program often punish victims who must take time off to protect themselves and their children. In 1996, Senator Paul Wellstone and I offered an amendment to TANF called the Family Violence Option, which allows States to adjust TANF work requirements for victims of domestic violence. The SAFE act will strengthen the Family Violence Option, in order to protect some of the most economically vulnerable victims.

Despite the great progress that has been made, domestic violence is still a serious problem in our country. Domestic violence is the leading cause of injury to women, and over 5.3 million incidents occur every year. Domestic or sexual violence also continues to have severe economic consequences, costing businesses between 3 and 5 billion dollars each year in lost productivity. The SAFE Act will help victims to escape dangerous situations and prevent abuse from occurring. This will not only protect the lives of countless victims, it will allow them to be more productive members of the economy.

I am proud of the guidance we've received from advocates in crafting this legislation. I want to thank them for their efforts and their commitment to breaking the cycle of violence. I want to particularly acknowledge the efforts of the advocates in Washington State who have provided invaluable input in drafting this legislation. The support and leadership of our communities will help us take this critical next step in passing SAFE.

For victims of domestic violence, an abusive relationship can seem like a hopeless situation. Through VAWA, we have already provided new hope to millions of these victims. The SAFE Act is the crucial next step in ending the cycle of abuse. I urge my colleagues to support this bill and provide victims and their families with the tools they need for productive, independent and most importantly, safe futures.

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. 1796

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 ''Security and Financial Empowerment Act'' or the ''SAFE Act''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Definitions.

TITLE I—ENTITLEMENT TO EMERGENCY LEAVE FOR ADDRESSING DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

Sec. 101. Purposes.
Sec. 102. Entitlement to emergency leave for addressing domestic violence, dating violence, sexual assault, or stalking.
Sec. 103. Existing leave usable for addressing domestic violence, dating violence, sexual assault, or stalking.
Sec. 104. Emergency benefits.
Sec. 105. Effect on other laws and employment benefits.
Sec. 107. Conforming amendment.
Sec. 108. Effective date.

TITLE II—ENTITLEMENT TO UNEMPLOYMENT COMPENSATION FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

Sec. 201. Purposes.
Sec. 202. Unemployment compensation and training provisions.

TITLE III—VICTIMS' EMPLOYMENT SUSTAINABILITY

Sec. 301. Short title.
Sec. 302. Purposes.
Sec. 303. Prohibited discriminatory acts.
Sec. 304. Enforcement.
Sec. 305. Attorney's fees.

TITLE IV—VICTIMS OF ABUSE INSURANCE PROTECTION

Sec. 401. Short title.
Sec. 402. Definitions.
Sec. 403. Discriminatory acts prohibited.
Sec. 404. Insurance protocols for subjects of abuse.
Sec. 405. Reasons for adverse actions.
Sec. 406. Life insurance.
Sec. 407. Subrogation without consent prohibited.
Sec. 408. Enforcement.
Sec. 409. Effective date.

TITLE V—NATIONAL CLEARINGHOUSE AND RESOURCE CENTER ON DOMESTIC AND SEXUAL VIOLENCE IN THE WORKPLACE GRANT

Sec. 501. National clearinghouse and resource center on domestic and sexual violence in the workplace grant.

TITLE VI—SEVERABILITY

Sec. 601. Severability.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Domestic violence crimes account for approximately 15 percent of total crime costs in the United States each year.

(2) Violence against women has been reported to be the leading cause of physical injury to women. Such violence has a devastating impact on women's physical and emotional health and financial security.

(3) According to a recent study by the National Institutes of Health and Centers for Disease Control and Prevention, each year there are 5,300,000 non-fatal violent victimizations committed by intimate partners against women. Female murder victims were substantially more likely than male murder victims to have been killed by an intimate partner. About ⅓ of female murder victims, and about 4 percent of male murder victims, were killed by an intimate partner.

(4) According to recent government estimates, approximately 987,400 rapes occur annually in the United States, 89 percent of the rapes perpetrated against female victims. Since 2001, rapes have actually increased by 4 percent.

(5) Approximately 10,200,000 people have been stalked at some time in their lives. Four out of every 5 stalking victims are women. Stalkers harass and terrorize their victims by spying on the victims, standing outside their places of work or homes, making unwanted phone calls, sending or leaving unwanted letters or items, or vandalizing property.

(6) Employees in the United States who have been victims of domestic violence, dating violence, sexual assault, or stalking too often suffer adverse consequences in the workplace as a result of their victimization.

(7) Victims of domestic violence, dating violence, sexual assault, and stalking are particularly vulnerable to changes in employment, pay, and benefits as a result of their victimizations, and are, therefore, in need of legal protection.

(8) The prevalence of domestic violence, dating violence, sexual assault, stalking, and other violence against women at work is dramatic. About 36,500 individuals, 80 percent of whom are women, were raped or sexually assaulted in the workplace each year from 1993 through 1999. Half of all female victims of violent workplace crimes know their attackers. Nearly 1 out of 10 violent workplace incidents are committed by partners or spouses. Women who work for State and local governments suffer a higher incidence of workplace assaults, including rapes, than women who work in the private sector.

(9) Homicide is the leading cause of death for women on the job. Husbands, boyfriends, and ex-partners commit 15 percent of workplace homicides against women.

(10) Studies indicate that between 35 and 56 percent of employed battered women surveyed were harassed at work by their abusive partners.

(11) According to a 1998 report of the Government Accountability Office, between ¼ and ½ of domestic violence victims surveyed in 3 studies reported that the victims lost a job due, at least in part, to domestic violence.

(12) Women who have experienced domestic violence or dating violence are more likely than other women to be unemployed, to suffer from health problems that can affect employability and job performance, to report lower personal income, and to rely on welfare.

(13) Abusers frequently seek to control their partners by actively interfering with their ability to work, including preventing their partners from going to work, harassing their partners at work, limiting the access of their partners to cash or transportation, and sabotaging the child care arrangements of their partners.

(14) More than ½ of women receiving welfare have been victims of domestic violence as adults and between ¼ and ⅓ reported being abused in the last year.

(15) Victims of intimate partner violence lose 8,000,000 days of paid work each year, the equivalent of over 32,000 full-time jobs and 5,600,000 days of household productivity.

(16) Sexual assault, whether occurring in or out of the workplace, can impair an employee's work performance, require time

away from work, and undermine the employee's ability to maintain a job. Almost 50 percent of sexual assault survivors lose their jobs or are forced to quit in the aftermath of the assaults.

(17) More than 35 percent of stalking victims report losing time from work due to the stalking and 7 percent never return to work.

(18)(A) According to the National Institute of Justice, crime costs an estimated $450,000,000,000 annually in medical expenses, lost earnings, social service costs, pain, suffering, and reduced quality of life for victims, which harms the Nation's productivity and drains the Nation's resources.

(B) Violent crime accounts for $426,000,000,000 per year of this amount.

(C) Rape exacts the highest costs per victim of any criminal offense, and accounts for $127,000,000,000 per year of the amount described in subparagraph (A).

(19) Violent crime results in wage losses equivalent to 1 percent of all United States earnings, and causes 3 percent of the Nation's medical spending and 14 percent of the Nation's injury-related medical spending.

(20) The Bureau of National Affairs has estimated that domestic violence costs United States employers between $3,000,000,000 and $5,000,000,000 annually in lost time and productivity. Other reports have estimated that domestic violence costs those employers between $5,800,000,000 and $13,000,000,000 annually.

(21) United States medical costs for domestic violence have been estimated to be $31,000,000,000 per year.

(22) Surveys of business executives and corporate security directors also underscore the heavy toll that workplace violence takes on women, businesses, and interstate commerce in the United States.

(23) Ninety-four percent of corporate security and safety directors at companies nationwide rank domestic violence as a high security concern.

(24) Forty-nine percent of senior executives recently surveyed said domestic violence has a harmful effect on their company's productivity, 47 percent said domestic violence negatively affects attendance, and 44 percent said domestic violence increases health care costs.

(25) Only 28 States have laws that explicitly provide unemployment insurance to domestic violence victims in certain circumstances, and none of the laws explicitly cover victims of sexual assault or stalking.

(26) Only 6 States provide domestic violence victims with leave from work to go to court, to the doctor, or to take other steps to address the domestic violence in their lives, and only Maine provides such leave to victims of sexual assault and stalking.

(27) No States prohibit employment discrimination against all victims of domestic violence, sexual assault, or stalking. Five States have limited protections against such discrimination for some victims under certain circumstances.

(28) Employees, including individuals participating in welfare to work programs, may need to take time during business hours to—

(A) obtain orders of protection;

(B) seek medical or legal assistance, counseling, or other services; or

(C) look for housing in order to escape from domestic violence.

(29) Victims of domestic violence, dating violence, sexual assault, or stalking have been subjected to discrimination by private and State employers, including discrimination motivated by stereotypic notions about women and other discrimination on the basis of sex.

(30) Domestic violence victims and third parties who help them have been subjected to discriminatory practices by health, life, disability, and property and casualty insurers, and employers who self-insure employee benefits, who have denied or canceled coverage, rejected claims, and raised rates based on domestic violence. Although some State legislatures have tried to address those practices, the scope of protection afforded by the laws adopted varies from State to State, with many failing to address the problem comprehensively. Moreover, Federal law prevents States from protecting the almost 40 percent of employees whose employers self-insure employee benefits.

(31) Existing Federal law does not explicitly—

(A) authorize victims of domestic violence, dating violence, sexual assault, or stalking to take leave from work to seek legal assistance and redress, counseling, or assistance with safety planning activities;

(B) address the eligibility of victims of domestic violence, dating violence, sexual assault, or stalking for unemployment compensation;

(C) prohibit employment discrimination against actual or perceived victims of domestic violence, dating violence, sexual assault, or stalking; or

(D) prohibit insurers and employers who self-insure employee benefits from—

(i) discriminating against domestic violence victims and those who help them in determining eligibility for coverage, rates charged, and standards for payment of claims; or

(ii) disclosing information about abuse and the location of the victims through insurance databases and other means.

SEC. 3. DEFINITIONS.

In this Act, except as otherwise expressly provided:

(1) COMMERCE.—The terms ''commerce'' and ''industry or activity affecting commerce'' have the meanings given the terms in section 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611).

(2) COURSE OF CONDUCT.—The term ''course of conduct'' means a course of repeatedly maintaining a visual or physical proximity to a person or conveying verbal or written threats, including threats conveyed through electronic communications, or threats implied by conduct.

(3) DATING VIOLENCE.—The term ''dating violence'' has the meaning given the term in section 826 of the Higher Education Amendments of 1998 (20 U.S.C. 1152).

(4) DOMESTIC VIOLENCE.—The term ''domestic violence'' has the meaning given the term in section 826 of the Higher Education Amendments of 1998 (20 U.S.C. 1152).

(5) DOMESTIC VIOLENCE COALITION.—The term ''domestic violence coalition'' means a nonprofit, nongovernmental membership organization that—

(A) consists of the entities carrying out a majority of the domestic violence programs carried out within a State;

(B) collaborates and coordinates activities with Federal, State, and local entities to further the purposes of domestic violence intervention and prevention; and

(C) among other activities, provides training and technical assistance to entities carrying out domestic violence programs within a State, territory, political subdivision, or area under Federal authority.

(6) ELECTRONIC COMMUNICATIONS.—The term ''electronic communications'' includes communications via telephone (including mobile phone), computer, e-mail, video recorder, fax machine, telex, or pager.

(7) EMPLOY; STATE.—The terms ''employ'' and ''State'' have the meanings given the terms in section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203).

(8) EMPLOYEE.—

(A) IN GENERAL.—The term ''employee'' means any person employed by an employer. In the case of an individual employed by a public agency, such term means an individual employed as described in section 3(e)(2) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)(2)).

(B) BASIS.—The term includes a person employed as described in subparagraph (A) on a full- or part-time basis, for a fixed time period, on a temporary basis, pursuant to a detail, as an independent contractor, or as a participant in a work assignment as a condition of receipt of Federal or State income-based public assistance.

(9) EMPLOYER.—The term ''employer''—

(A) means any person engaged in commerce or in any industry or activity affecting commerce who employs 15 or more individuals; and

(B) includes any person acting directly or indirectly in the interest of an employer in relation to an employee, and includes a public agency that employs individuals as described in section 3(e)(2) of the Fair Labor Standards Act of 1938, but does not include any labor organization (other than when acting as an employer) or anyone acting in the capacity of officer or agent of such labor organization.

(10) EMPLOYMENT BENEFITS.—The term ''employment benefits'' means all benefits provided or made available to employees by an employer, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions, regardless of whether such benefits are provided by a practice or written policy of an employer or through an ''employee benefit plan'', as defined in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(3)).

(11) FAMILY OR HOUSEHOLD MEMBER.—The term ''family or household member'', used with respect to a person, means a spouse, former spouse, parent, son or daughter, or person residing or formerly residing in the same dwelling unit as the person.

(12) PARENT; SON OR DAUGHTER.—The terms ''parent'' and ''son or daughter'' have the meanings given the terms in section 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611).

(13) PERSON.—The term ''person'' has the meaning given the term in section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203).

(14) PUBLIC AGENCY.—The term ''public agency'' has the meaning given the term in section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203).

(15) PUBLIC ASSISTANCE.—The term ''public assistance'' includes cash, food stamps, medical assistance, housing assistance, and other benefits provided on the basis of income by a public agency.

(16) REDUCED LEAVE SCHEDULE.—The term ''reduced leave schedule'' means a leave schedule that reduces the usual number of hours per workweek, or hours per workday, of an employee.

(17) REPEATEDLY.—The term ''repeatedly'' means on 2 or more occasions.

(18) SECRETARY.—The term ''Secretary'' means the Secretary of Labor.

(19) SEXUAL ASSAULT.—The term ''sexual assault'' has the meaning given the term in section 826 of the Higher Education Amendments of 1998 (20 U.S.C. 1152).

(20) SEXUAL ASSAULT COALITION.—The term ''sexual assault coalition'' means a nonprofit, nongovernmental membership organization that—

(A) consists of the entities carrying out a majority of the sexual assault programs carried out within a State;

(B) collaborates and coordinates activities with Federal, State, and local entities to further the purposes of sexual assault intervention and prevention; and

(C) among other activities, provides training and technical assistance to entities carrying out sexual assault programs within a State, territory, political subdivision, or area under Federal authority.

(21) STALKING.—The term ''stalking'' means engaging in a course of conduct directed at a specific person that would cause a reasonable person to suffer substantial emotional distress or to fear bodily injury, sexual assault, or death to the person, or the person's spouse, parent, or son or daughter, or any other person who regularly resides in the person's household, if the conduct causes the specific person to have such distress or fear.

(22) VICTIM OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING.—The term ''victim of domestic violence, dating violence, sexual assault, or stalking'' includes a person who has been a victim of domestic violence, dating violence, sexual assault, or stalking and a person whose family or household member has been a victim of domestic violence, dating violence, sexual assault, or stalking.

(23) VICTIM SERVICES ORGANIZATION.—The term ''victim services organization'' means a nonprofit, nongovernmental organization that provides assistance to victims of domestic violence, dating violence, sexual assault, or stalking, or to advocates for such victims, including a rape crisis center, an organization carrying out a domestic violence program, an organization operating a shelter or providing counseling services, or an organization providing assistance through the legal process.

TITLE I—ENTITLEMENT TO EMERGENCY LEAVE FOR ADDRESSING DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

SEC. 101. PURPOSES.

The purposes of this title are, pursuant to the affirmative power of Congress to enact legislation under the portions of section 8 of article I of the Constitution relating to providing for the general welfare and to regulation of commerce among the several States, and under section 5 of the 14th amendment to the Constitution—

(1) to promote the national interest in reducing domestic violence, dating violence, sexual assault, and stalking by enabling victims of domestic violence, dating violence, sexual assault, or stalking to maintain the financial independence necessary to leave abusive situations, achieve safety, and minimize the physical and emotional injuries from domestic violence, dating violence, sexual assault, or stalking, and to reduce the devastating economic consequences of domestic violence, dating violence, sexual assault, or stalking to employers and employees;

(2) to promote the national interest in ensuring that victims of domestic violence, dating violence, sexual assault, or stalking can recover from and cope with the effects of domestic violence, dating violence, sexual assault, or stalking, and participate in criminal and civil justice processes, without fear of adverse economic consequences from their employers;

(3) to ensure that victims of domestic violence, dating violence, sexual assault, or stalking can recover from and cope with the effects of domestic violence, dating violence, sexual assault, or stalking, and participate in criminal and civil justice processes, without fear of adverse economic consequences with respect to public benefits;

(4) to promote the purposes of the 14th amendment by preventing sex-based discrimination and discrimination against victims of domestic violence, dating violence, sexual assault, or stalking in employment leave, by addressing the failure of existing laws to protect the employment rights of victims of domestic violence, dating violence, sexual assault, or stalking, by protecting their civil and economic rights, and by furthering the equal opportunity of women for economic self-sufficiency and employment free from discrimination;

(5) to minimize the negative impact on interstate commerce from dislocations of employees and harmful effects on productivity, employment, health care costs, and employer costs, caused by domestic violence, dating violence, sexual assault, or stalking, including intentional efforts to frustrate women's ability to participate in employment and interstate commerce;

(6) to further the goals of human rights and dignity reflected in instruments such as the Charter of the United Nations, the Universal Declaration of Human Rights, and the International Covenant on Civil and Political Rights; and

(7) to accomplish the purposes described in paragraphs (1) through (6) by—

(A) entitling employed victims of domestic violence, dating violence, sexual assault, or stalking to take leave to seek medical help, legal assistance, counseling, safety planning, and other assistance without penalty from their employers; and

(B) prohibiting employers from discriminating against actual or perceived victims of domestic violence, dating violence, sexual assault, or stalking, in a manner that accommodates the legitimate interests of employers and protects the safety of all persons in the workplace.

SEC. 102. ENTITLEMENT TO EMERGENCY LEAVE FOR ADDRESSING DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING.

(a) LEAVE REQUIREMENT.—

(1) BASIS.—An employee who is a victim of domestic violence, dating violence, sexual assault, or stalking may take leave from work to address domestic violence, dating violence, sexual assault, or stalking, by—

(A) seeking medical attention for, or recovering from, physical or psychological injuries caused by domestic violence, dating violence, sexual assault, or stalking to the employee or the employee's family or household member;

(B) obtaining services from a victim services organization for the employee or the employee's family or household member;

(C) obtaining psychological or other counseling for the employee or the employee's family or household member;

(D) participating in safety planning, temporarily or permanently relocating, or taking other actions to increase the safety of the employee or the employee's family or household member from future domestic violence, dating violence, sexual assault, or stalking or ensure economic security; or

(E) seeking legal assistance or remedies to ensure the health and safety of the employee or the employee's family or household member, including preparing for or participating in any civil or criminal legal proceeding related to or derived from domestic violence, dating violence, sexual assault, or stalking.

(2) PERIOD.—An employee may take not more than 30 days of leave, as described in paragraph (1), in any 12-month period.

(3) SCHEDULE.—Leave described in paragraph (1) may be taken intermittently or on a reduced leave schedule.

(b) NOTICE.—The employee shall provide the employer with reasonable notice of the employee's intention to take the leave, unless providing such notice is not practicable.

(c) CERTIFICATION.—

(1) IN GENERAL.—The employer may require the employee to provide certification to the employer, within a reasonable period after the employer requests the certification, that—

(A) the employee or the employee's family or household member is a victim of domestic violence, dating violence, sexual assault, or stalking; and

(B) the leave is for 1 of the purposes enumerated in subsection (a)(1).

(2) CONTENTS.—An employee may satisfy the certification requirement of paragraph (1) by providing to the employer—

(A) a sworn statement of the employee;

(B) documentation from an employee, agent, or volunteer of a victim services organization, an attorney, a member of the clergy, or a medical or other professional, from whom the employee or the employee's family or household member has sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking and the effects of domestic violence, dating violence, sexual assault, or stalking;

(C) a police or court record; or

(D) other corroborating evidence.

(d) CONFIDENTIALITY.—All information provided to the employer pursuant to subsection (b) or (c), including a statement of the employee or any other documentation, record, or corroborating evidence, and the fact that the employee has requested or obtained leave pursuant to this section, shall be retained in the strictest confidence by the employer, except to the extent that disclosure is—

(1) requested or consented to by the employee in writing; or

(2) otherwise required by applicable Federal or State law.

(e) EMPLOYMENT AND BENEFITS.—

(1) RESTORATION TO POSITION.—

(A) IN GENERAL.—Except as provided in paragraph (2), any employee who takes leave under this section for the intended purpose of the leave shall be entitled, on return from such leave—

(i) to be restored by the employer to the position of employment held by the employee when the leave commenced; or

(ii) to be restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

(B) LOSS OF BENEFITS.—The taking of leave under this section shall not result in the loss of any employment benefit accrued prior to the date on which the leave commenced.

(C) LIMITATIONS.—Nothing in this subsection shall be construed to entitle any restored employee to—

(i) the accrual of any seniority or employment benefits during any period of leave; or

(ii) any right, benefit, or position of employment other than any right, benefit, or position to which the employee would have been entitled had the employee not taken the leave.

(D) CONSTRUCTION.—Nothing in this paragraph shall be construed to prohibit an employer from requiring an employee on leave under this section to report periodically to the employer on the status and intention of the employee to return to work.

(2) EXEMPTION CONCERNING CERTAIN HIGHLY COMPENSATED EMPLOYEES.—

(A) DENIAL OF RESTORATION.—An employer may deny restoration under paragraph (1) to any employee described in subparagraph (B) if—

(i) such denial is necessary to prevent substantial and grievous economic injury to the operations of the employer;

(ii) the employer notifies the employee of the intent of the employer to deny restoration on such basis at the time the employer

determines that such injury would occur; and

(iii) in any case in which the leave has commenced, the employee elects not to return to employment after receiving such notice.

(B) AFFECTED EMPLOYEES.—An employee referred to in subparagraph (A) is a salaried employee who is among the highest paid 10 percent of the employees employed by the employer within 75 miles of the facility at which the employee is employed.

(3) MAINTENANCE OF HEALTH BENEFITS.—

(A) COVERAGE.—Except as provided in subparagraph (B), during any period that an employee takes leave under this section, the employer shall maintain coverage under any group health plan (as defined in section 5000(b)(1) of the Internal Revenue Code of 1986) for the duration of such leave at the level and under the conditions coverage would have been provided if the employee had continued in employment continuously for the duration of such leave.

(B) FAILURE TO RETURN FROM LEAVE.—The employer may recover the premium that the employer paid for maintaining coverage for the employee under such group health plan during any period of leave under this section if—

(i) the employee fails to return from leave under this section after the period of leave to which the employee is entitled has expired; and

(ii) the employee fails to return to work for a reason other than—

(I) the continuation of, recurrence of, or onset of an episode of domestic violence, dating violence, sexual assault, or stalking, that entitles the employee to leave pursuant to this section; or

(II) other circumstances beyond the control of the employee.

(C) CERTIFICATION.—

(i) ISSUANCE.—An employer may require an employee who claims that the employee is unable to return to work because of a reason described in subclause (I) or (II) of subparagraph (B)(ii) to provide, within a reasonable period after making the claim, certification to the employer that the employee is unable to return to work because of that reason.

(ii) CONTENTS.—An employee may satisfy the certification requirement of clause (i) by providing to the employer—

(I) a sworn statement of the employee;

(II) documentation from an employee, agent, or volunteer of a victim services organization, an attorney, a member of the clergy, or a medical or other professional, from whom the employee or the employee's family or household member has sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking and the effects of domestic violence, dating violence, sexual assault, or stalking;

(III) a police or court record; or

(IV) other corroborating evidence.

(D) CONFIDENTIALITY.—All information provided to the employer pursuant to subparagraph (C), including a statement of the employee or any other documentation, record, or corroborating evidence, and the fact that the employee is not returning to work because of a reason described in subclause (I) or (II) of subparagraph (B)(ii), shall be retained in the strictest confidence by the employer, except to the extent that disclosure is—

(i) requested or consented to by the employee; or

(ii) otherwise required by applicable Federal or State law.

(f) PROHIBITED ACTS.—

(1) INTERFERENCE WITH RIGHTS.—

(A) EXERCISE OF RIGHTS.—It shall be unlawful for any employer to interfere with, restrain, or deny the exercise of or the attempt to exercise, any right provided under this section.

(B) EMPLOYER DISCRIMINATION.—It shall be unlawful for any employer to discharge or harass any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment of the individual (including retaliation in any form or manner) because the individual—

(i) exercised any right provided under this section; or

(ii) opposed any practice made unlawful by this section.

(C) PUBLIC AGENCY SANCTIONS.—It shall be unlawful for any public agency to deny, reduce, or terminate the benefits of, otherwise sanction, or harass any individual, or otherwise discriminate against any individual (including retaliation in any form or manner) with respect to the amount, terms, or conditions of public assistance of the individual because the individual—

(i) exercised any right provided under this section; or

(ii) opposed any practice made unlawful by this section.

(2) INTERFERENCE WITH PROCEEDINGS OR INQUIRIES.—It shall be unlawful for any person to discharge or in any other manner discriminate (as described in subparagraph (B) or (C) of paragraph (1)) against any individual because such individual—

(A) has filed any charge, or has instituted or caused to be instituted any proceeding, under or related to this section;

(B) has given, or is about to give, any information in connection with any inquiry or proceeding relating to any right provided under this section; or

(C) has testified, or is about to testify, in any inquiry or proceeding relating to any right provided under this section.

(g) ENFORCEMENT.—

(1) CIVIL ACTION BY AFFECTED INDIVIDUALS.—

(A) LIABILITY.—Any employer that violates subsection (f) shall be liable to any individual affected—

(i) for damages equal to—

(I) the amount of—

(aa) any wages, salary, employment benefits, or other compensation denied or lost to such individual by reason of the violation; or

(bb) in a case in which wages, salary, employment benefits, or other compensation has not been denied or lost to the individual, any actual monetary losses sustained by the individual as a direct result of the violation;

(II) the interest on the amount described in subclause (I) calculated at the prevailing rate; and

(III) an additional amount as liquidated damages equal to the sum of the amount described in subclause (I) and the interest described in subclause (II), except that if an employer that has violated subsection (f) proves to the satisfaction of the court that the act or omission that violated subsection (f) was in good faith and that the employer had reasonable grounds for believing that the act or omission was not a violation of subsection (f), such court may, in the discretion of the court, reduce the amount of the liability to the amount and interest determined under subclauses (I) and (II), respectively; and

(ii) for such equitable relief as may be appropriate, including employment, reinstatement, and promotion.

(B) RIGHT OF ACTION.—An action to recover the damages or equitable relief prescribed in subparagraph (A) may be maintained against any employer in any Federal or State court of competent jurisdiction by any 1 or more affected individuals for and on behalf of—

(i) the individuals; or

(ii) the individuals and other individuals similarly situated.

(C) FEES AND COSTS.—The court in such an action shall, in addition to any judgment awarded to the plaintiff, allow a reasonable attorney's fee, reasonable expert witness fees, and other costs of the action to be paid by the defendant.

(D) LIMITATIONS.—The right provided by subparagraph (B) to bring an action by or on behalf of any affected individual shall terminate—

(i) on the filing of a complaint by the Secretary in an action under paragraph (4) in which restraint is sought of any further delay in the payment of the amount described in subparagraph (A)(i) to such individual by an employer responsible under subparagraph (A) for the payment; or

(ii) on the filing of a complaint by the Secretary in an action under paragraph (2) in which a recovery is sought of the damages described in subparagraph (A)(i) owing to an affected individual by an employer liable under subparagraph (A),

unless the action described in clause (i) or (ii) is dismissed without prejudice on motion of the Secretary.

(2) ACTION BY THE SECRETARY.—

(A) ADMINISTRATIVE ACTION.—The Secretary shall receive, investigate, and attempt to resolve complaints of violations of subsection (f) in the same manner as the Secretary receives, investigates, and attempts to resolve complaints of violations of sections 6 and 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206 and 207).

(B) CIVIL ACTION.—The Secretary may bring an action in any court of competent jurisdiction to recover the damages described in paragraph (1)(A)(i).

(C) SUMS RECOVERED.—Any sums recovered by the Secretary pursuant to subparagraph (B) shall be held in a special deposit account and shall be paid, on order of the Secretary, directly to each individual affected. Any such sums not paid to such an individual because of inability to do so within a period of 3 years shall be deposited into the Treasury of the United States as miscellaneous receipts.

(3) LIMITATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), an action may be brought under this subsection not later than 2 years after the date of the last event constituting the alleged violation for which the action is brought.

(B) WILLFUL VIOLATION.—In the case of such action brought for a willful violation of subsection (f), such action may be brought within 3 years after the date of the last event constituting the alleged violation for which such action is brought.

(C) COMMENCEMENT.—In determining when an action is commenced by the Secretary under this subsection for the purposes of this paragraph, it shall be considered to be commenced on the date when the complaint is filed.

(4) ACTION FOR INJUNCTION BY SECRETARY.—The district courts of the United States shall have jurisdiction, for cause shown, in an action brought by the Secretary—

(A) to restrain violations of subsection (f), including the restraint of any withholding of payment of wages, salary, employment benefits, or other compensation, plus interest, found by the court to be due to affected individuals; or

(B) to award such other equitable relief as may be appropriate, including employment, reinstatement, and promotion.

(5) SOLICITOR OF LABOR.—The Solicitor of Labor may appear for and represent the Secretary on any litigation brought under this subsection.

(6) EMPLOYER LIABILITY UNDER OTHER LAWS.—Nothing in this section shall be construed to limit the liability of an employer or public agency to an individual, for harm suffered relating to the individual's experience of domestic violence, dating violence, sexual assault, or stalking, pursuant to any other Federal or State law, including a law providing for a legal remedy.

(7) LIBRARY OF CONGRESS.—Notwithstanding any other provision of this subsection, in the case of the Library of Congress, the authority of the Secretary under this subsection shall be exercised by the Librarian of Congress.

(8) CERTAIN PUBLIC AGENCY EMPLOYERS.—

(A) AGENCIES.—Notwithstanding any other provision of this subsection, in the case of a public agency that employs individuals as described in subparagraph (A) or (B) of section 3(e)(2) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)(2)) (other than an entity of the legislative branch of the Federal Government), subparagraph (B) shall apply.

(B) AUTHORITY.—In the case described in subparagraph (A), the powers, remedies, and procedures provided in the case of a violation of chapter 63 of title 5, United States Code, in that title to an employing agency, in chapter 12 of that title to the Merit Systems Protection Board, or in that title to any person alleging a violation of chapter 63 of that title, shall be the powers, remedies, and procedures this subsection provides in the case of a violation of subsection (f) to that agency, that Board, or any person alleging a violation of subsection (f), respectively, against an employee who is such an individual.

(9) PUBLIC AGENCIES PROVIDING PUBLIC ASSISTANCE.—Consistent with regulations prescribed under section 106(d), the President shall ensure that any public agency that violates subsection (f)(1)(C), or subsection (f)(2) by discriminating as described in subsection (f)(1)(C), shall provide to any individual who receives a less favorable amount, term, or condition of public assistance as a result of the violation—

(A)(i) the amount of any public assistance denied or lost to such individual by reason of the violation; and

(ii) the interest on the amount described in clause (i); and

(B) such equitable relief as may be appropriate.

SEC. 103. EXISTING LEAVE USABLE FOR ADDRESSING DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING.

An employee who is entitled to take paid or unpaid leave (including family, medical, sick, annual, personal, or similar leave) from employment, pursuant to State or local law, a collective bargaining agreement, or an employment benefits program or plan, may elect to substitute any period of such leave for an equivalent period of leave provided under section 102.

SEC. 104. EMERGENCY BENEFITS.

(a) IN GENERAL.—A State may use funds provided to the State under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) to provide nonrecurrent short-term emergency benefits to an individual for any period of leave the individual takes pursuant to section 102.

(b) ELIGIBILITY.—In calculating the eligibility of an individual for such emergency benefits, the State shall count only the cash available or accessible to the individual.

(c) TIMING.—

(1) APPLICATIONS.—An individual seeking emergency benefits under subsection (a) from a State shall submit an application to the State.

(2) BENEFITS.—The State shall provide benefits to an eligible applicant under paragraph (1) on an expedited basis, and not later than 7 days after the applicant submits an application under paragraph (1).

(d) CONFORMING AMENDMENT.—Section 404 of the Social Security Act (42 U.S.C. 604) is amended by adding at the end the following:

''(l) AUTHORITY TO PROVIDE EMERGENCY BENEFITS.—A State that receives a grant under section 403 may use the grant to provide nonrecurrent short-term emergency benefits, in accordance with section 104 of the Security and Financial Empowerment Act, to individuals who take leave pursuant to section 102 of that Act, without regard to whether the individuals receive assistance under the State program funded under this part.''.

SEC. 105. EFFECT ON OTHER LAWS AND EMPLOYMENT BENEFITS.

(a) MORE PROTECTIVE LAWS, AGREEMENTS, PROGRAMS, AND PLANS.—Nothing in this title shall be construed to supersede any provision of any Federal, State, or local law, collective bargaining agreement, or employment benefits program or plan that provides—

(1) greater leave benefits for victims of domestic violence, dating violence, sexual assault, or stalking than the rights established under this title; or

(2) leave benefits for a larger population of victims of domestic violence, dating violence, sexual assault, or stalking (as defined in such law, agreement, program, or plan) than the victims of domestic violence, dating violence, sexual assault, or stalking covered under this title.

(b) LESS PROTECTIVE LAWS, AGREEMENTS, PROGRAMS, AND PLANS.—The rights established for victims of domestic violence, dating violence, sexual assault, or stalking under this title shall not be diminished by any State or local law, collective bargaining agreement, or employment benefits program or plan.

SEC. 106. REGULATIONS.

(a) IN GENERAL.—Except as provided in subsections (b), (c), and (d), the Secretary shall issue regulations to carry out this title.

(b) LIBRARY OF CONGRESS.—The Librarian of Congress shall prescribe the regulations described in subsection (a) with respect to employees of the Library of Congress. The regulations prescribed under this subsection shall, to the extent appropriate, be consistent with the regulations prescribed by the Secretary under subsection (a).

(c) CERTAIN PUBLIC AGENCY EMPLOYERS.—The Office of Personnel Management shall prescribe the regulations described in subsection (a) with respect to individuals described in subparagraph (A) or (B) of section 3(e)(2) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)(2)) (other than an individual employed by an entity of the legislative branch of the Federal Government). The regulations prescribed under this subsection shall, to the extent appropriate, be consistent with the regulations prescribed by the Secretary under subsection (a).

(d) PUBLIC AGENCIES PROVIDING PUBLIC ASSISTANCE.—The President shall prescribe the regulations described in subsection (a) with respect to applicants for and recipients of public assistance, in the case of violations of section 102(f)(1)(C), or section 102(f)(2) due to discrimination described in section 102(f)(1)(C). The regulations prescribed under this subsection shall, to the extent appropriate, be consistent with the regulations prescribed by the Secretary under subsection (a).

SEC. 107. CONFORMING AMENDMENT.

Section 1003(a)(1) of the Rehabilitation Act Amendments of 1986 (42 U.S.C. 2000d–7(a)(1)) is amended by inserting ''title I or III of the Security and Financial Empowerment Act,'' before ''or the provisions''.

SEC. 108. EFFECTIVE DATE.

This title and the amendment made by this title take effect 180 days after the date of enactment of this Act.

TITLE II—ENTITLEMENT TO UNEMPLOYMENT COMPENSATION FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

SEC. 201. PURPOSES.

The purposes of this title are, pursuant to the affirmative power of Congress to enact legislation under the portions of section 8 of article I of the Constitution relating to laying and collecting taxes, providing for the general welfare, and regulation of commerce among the several States, and under section 5 of the 14th amendment to the Constitution—

(1) to promote the national interest in reducing domestic violence, dating violence, sexual assault, and stalking by enabling victims of domestic violence, dating violence, sexual assault, or stalking to maintain the financial independence necessary to leave abusive situations, achieve safety, and minimize the physical and emotional injuries from domestic violence, dating violence, sexual assault, or stalking, and to reduce the devastating economic consequences of domestic violence, dating violence, sexual assault, or stalking to employers and employees;

(2) to promote the national interest in ensuring that victims of domestic violence, dating violence, sexual assault, or stalking can recover from and cope with the effects of such victimization and participate in the criminal and civil justice processes without fear of adverse economic consequences;

(3) to minimize the negative impact on interstate commerce from dislocations of employees and harmful effects on productivity, loss of employment, health care costs, and employer costs, caused by domestic violence, dating violence, sexual assault, or stalking, including intentional efforts to frustrate the ability of women to participate in employment and interstate commerce;

(4) to promote the purposes of the 14th amendment to the Constitution by preventing sex-based discrimination and discrimination against victims of domestic violence, dating violence, sexual assault, or stalking in unemployment insurance, by addressing the failure of existing laws to protect the employment rights of victims of domestic violence, dating violence, sexual assault, or stalking, by protecting their civil and economic rights, and by furthering the equal opportunity of women for economic self-sufficiency and employment free from discrimination; and

(5) to accomplish the purposes described in paragraphs (1) through (4) by providing unemployment insurance to those who are separated from their employment as a result of domestic violence, dating violence, sexual assault, or stalking, in a manner that accommodates the legitimate interests of employers and protects the safety of all persons in the workplace.

SEC. 202. UNEMPLOYMENT COMPENSATION AND TRAINING PROVISIONS.

(a) UNEMPLOYMENT COMPENSATION.—Section 3304 of the Internal Revenue Code of 1986 (relating to approval of State unemployment compensation laws) is amended—

(1) in subsection (a)—

(A) in paragraph (18), by striking ''and'' at the end;

(B) by redesignating paragraph (19) as paragraph (20); and

(C) by inserting after paragraph (18) the following new paragraph:

''(19) compensation shall not be denied where an individual is separated from employment due to circumstances resulting

from the individual's experience of domestic violence, dating violence, sexual assault, or stalking, nor shall States impose additional conditions that restrict the individual's eligibility for or receipt of benefits beyond those required of other individuals who are forced to leave their jobs or are deemed to have good cause for voluntarily separating from a job in the State; and''; and

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

''(g) CONSTRUCTION.—For purposes of subsection (a)(19)—

''(1) DOCUMENTATION.—In determining eligibility for compensation due to circumstances resulting from an individual's experience of domestic violence, dating violence, sexual assault, or stalking—

''(A) States shall adopt, or have adopted, by statute, regulation, or policy a list of forms of documentation that may be presented to demonstrate eligibility; and

''(B) presentation of any one of such forms of documentation shall be sufficient to demonstrate eligibility, except that a State may require the presentation of a form of identification in addition to the written statement of claimant described in paragraph (2)(G).

''(2) LIST OF FORMS OF DOCUMENTATION.—The list referred to in paragraph (1)(A) shall include not less than 3 of the following forms of documentation:

''(A) An order of protection or other documentation issued by a court.

''(B) A police report or criminal charges documenting the domestic violence, dating violence, sexual assault, or stalking.

''(C) Documentation that the perpetrator has been convicted of the offense of domestic violence, dating violence, sexual assault, or stalking.

''(D) Medical documentation of the domestic violence, dating violence, sexual assault, or stalking.

''(E) Evidence of domestic violence, dating violence, sexual assault, or stalking from a counselor, social worker, health worker, or domestic violence shelter worker.

''(F) A written statement that the applicant or the applicant's minor child is a victim of domestic violence, dating violence, sexual assault, or stalking, provided by a social worker, member of the clergy, shelter worker, attorney at law, or other professional who has assisted the applicant in dealing with the domestic violence, dating violence, sexual assault, or stalking.

''(G) A written statement of the claimant.

''(3) DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING DEFINED.—The terms 'domestic violence', 'dating violence', 'sexual assault', and 'stalking' have the meanings given such terms in section 3 of the Security and Financial Empowerment Act.''.

(b) UNEMPLOYMENT COMPENSATION PERSONNEL TRAINING.—Section 303(a) of the Social Security Act (42 U.S.C. 503(a)) is amended—

(1) by redesignating paragraphs (4) through (10) as paragraphs (5) through (11), respectively; and

(2) by inserting after paragraph (3) the following new paragraph:

''(4) Such methods of administration as will ensure that—

''(A) applicants for unemployment compensation and individuals inquiring about such compensation are adequately notified of the provisions of subsections (a)(19) and (g) of section 3304 of the Internal Revenue Code of 1986 (relating to the availability of unemployment compensation for victims of domestic violence, dating violence, sexual assault, or stalking); and

''(B) claims reviewers and hearing personnel are adequately trained in—

''(i) the nature and dynamics of domestic violence, dating violence, sexual assault, or stalking (as such terms are defined in section 3 of the Security and Financial Empowerment Act); and

''(ii) methods of ascertaining and keeping confidential information about possible experiences of domestic violence, dating violence, sexual assault, or stalking (as so defined) to ensure that—

''(I) requests for unemployment compensation based on separations stemming from domestic violence, dating violence, sexual assault, or stalking (as so defined) are reliably screened, identified, and adjudicated; and

''(II) full confidentiality is provided for the individual's claim and submitted evidence; and''.

(c) TANF PERSONNEL TRAINING.—Section 402(a) of the Social Security Act (42 U.S.C. 602(a)) is amended by adding at the end the following new paragraph:

''(8) CERTIFICATION THAT THE STATE WILL PROVIDE INFORMATION TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING.—A certification by the chief officer of the State that the State has established and is enforcing standards and procedures to—

''(A) ensure that applicants for assistance under the program and individuals inquiring about such assistance are adequately notified of—

''(i) the provisions of subsections (a)(19) and (g) of section 3304 of the Internal Revenue Code of 1986 (relating to the availability of unemployment compensation for victims of domestic violence, dating violence, sexual assault, or stalking); and

''(ii) assistance made available by the State to victims of domestic violence, dating violence, sexual assault, or stalking (as such terms are defined in section 3 of the Security and Financial Empowerment Act);

''(B) ensure that case workers and other agency personnel responsible for administering the State program funded under this part are adequately trained in—

''(i) the nature and dynamics of domestic violence, dating violence, sexual assault, or stalking (as so defined);

''(ii) State standards and procedures relating to the prevention of, and assistance for individuals who experience, domestic violence, dating violence, sexual assault, or stalking (as so defined); and

''(iii) methods of ascertaining and keeping confidential information about possible experiences of domestic violence, dating violence, sexual assault, or stalking (as so defined);

''(C) if a State has elected to establish and enforce standards and procedures regarding the screening for and identification of domestic violence pursuant to paragraph (7), ensure that—

''(i) applicants for assistance under the program and individuals inquiring about such assistance are adequately notified of options available under such standards and procedures; and

''(ii) case workers and other agency personnel responsible for administering the State program funded under this part are provided with adequate training regarding such standards and procedures and options available under such standards and procedures; and

''(D) ensure that the training required under subparagraphs (B) and, if applicable, (C)(ii) is provided through a training program operated by an eligible entity (as defined in section 202(d)(2) of the Security and Financial Empowerment Act).''.

(d) DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING TRAINING GRANT PROGRAM.—

(1) GRANTS AUTHORIZED.—The Secretary of Health and Human Services (in this subsection referred to as the ''Secretary'') is authorized to award—

(A) a grant to a national victim services organization in order for such organization to—

(i) develop and disseminate a model training program (and related materials) for the training required under section 303(a)(4)(B) of the Social Security Act, as added by subsection (b), and under subparagraphs (B) and, if applicable, (C)(ii) of section 402(a)(8) of the such Act, as added by subsection (c); and

(ii) provide technical assistance with respect to such model training program; and

(B) grants to State, tribal, or local agencies in order for such agencies to contract with eligible entities to provide State, tribal, or local case workers and other State, tribal, or local agency personnel responsible for administering the temporary assistance to needy families program established under part A of title IV of the Social Security Act in a State or Indian reservation with the training required under subparagraphs (B) and, if applicable, (C)(ii) of such section 402(a)(8).

(2) ELIGIBLE ENTITY DEFINED.—For purposes of paragraph (1)(B), the term ''eligible entity'' means an entity—

(A) that is—

(i) a State or tribal domestic violence coalition or sexual assault coalition;

(ii) a State or local victim services organization with recognized expertise in the dynamics of domestic violence, dating violence, sexual assault, or stalking whose primary mission is to provide services to victims of domestic violence, dating violence, sexual assault, or stalking, such as a rape crisis center or domestic violence program; or

(iii) an organization with demonstrated expertise in State or county welfare laws and implementation of such laws and experience with disseminating information on such laws and implementation, but only if such organization will provide the required training in partnership with an entity described in clause (i) or (ii); and

(B) that—

(i) has demonstrated expertise in both domestic violence and sexual assault, such as a joint domestic violence and sexual assault coalition; or

(ii) will provide the required training in partnership with an entity described in clause (i) or (ii) of subparagraph (A) in order to comply with the dual domestic violence and sexual assault expertise requirement under clause (i).

(3) APPLICATION.—An entity seeking a grant under this subsection shall submit an application to the Secretary at such time, in such form and manner, and containing such information as the Secretary specifies.

(4) REPORTS.—

(A) REPORTS TO CONGRESS.—The Secretary shall annually submit a report to Congress on the grant program established under this subsection.

(B) REPORTS AVAILABLE TO PUBLIC.—The Secretary shall establish procedures for the dissemination to the public of each report submitted under subparagraph (A). Such procedures shall include the use of the Internet to disseminate such reports.

(5) AUTHORIZATION OF APPROPRIATIONS.—

(A) AUTHORIZATION.—There are authorized to be appropriated—

(i) $1,000,000 for fiscal year 2007 to carry out the provisions of paragraph (1)(A); and

(ii) $12,000,000 for each of fiscal years 2008 through 2010 to carry out the provisions of paragraph (1)(B).

(B) THREE-YEAR AVAILABILITY OF GRANT FUNDS.—Each recipient of a grant under this subsection shall return to the Secretary any

unused portion of such grant not later than 3 years after the date the grant was awarded, together with any earnings on such unused portion.

(C) AMOUNTS RETURNED.—Any amounts returned pursuant to subparagraph (B) shall be available without further appropriation to the Secretary for the purpose of carrying out the provisions of paragraph (1)(B).

(e) EFFECT ON EXISTING LAWS, ETC.—

(1) MORE PROTECTIVE LAWS, AGREEMENTS, PROGRAMS, AND PLANS.—Nothing in this title shall be construed to supersede any provision of any Federal, State, or local law, collective bargaining agreement, or employment benefits program or plan that provides greater unemployment insurance benefits for victims of domestic violence, dating violence, sexual assault, or stalking than the rights established under this title.

(2) LESS PROTECTIVE LAWS, AGREEMENTS, PROGRAMS, AND PLANS.—The rights established for victims of domestic violence, dating violence, sexual assault, or stalking under this title shall not be diminished by any more restrictive State or local law, collective bargaining agreement, or employment benefits program or plan.

(f) EFFECTIVE DATE.—

(1) UNEMPLOYMENT AMENDMENTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B) and paragraph (2), the amendments made by this section shall apply in the case of compensation paid for weeks beginning on or after the expiration of 180 days from the date of enactment of this Act.

(B) EXTENSION OF EFFECTIVE DATE FOR STATE LAW AMENDMENT.—

(i) IN GENERAL.—If the Secretary of Labor identifies a State as requiring a change to its statutes, regulations, or policies in order to comply with the amendments made by this section (excluding the amendment made by subsection (c)), such amendments shall apply in the case of compensation paid for weeks beginning after the earlier of—

(I) the date the State changes its statutes, regulations, or policies in order to comply with such amendments; or

(II) the end of the first session of the State legislature which begins after the date of enactment of this Act or which began prior to such date and remained in session for at least 25 calendar days after such date;

except that in no case shall such amendments apply before the date that is 180 days after the date of enactment of this Act.

(ii) SESSION DEFINED.—In this subparagraph, the term ''session'' means a regular, special, budget, or other session of a State legislature.

(2) TANF AMENDMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendment made by subsection (c) shall take effect on the date of enactment of this Act.

(B) EXTENSION OF EFFECTIVE DATE FOR STATE LAW AMENDMENT.—In the case of a State plan under part A of title IV of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendment made by subsection (c), the State plan shall not be regarded as failing to comply with the requirements of such amendment on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.

TITLE III—VICTIMS' EMPLOYMENT SUSTAINABILITY

SEC. 301. SHORT TITLE.

This title may be cited as the ''Victims' Employment Sustainability Act''.

SEC. 302. PURPOSES.

The purposes of this title are, pursuant to the affirmative power of Congress to enact legislation under the portions of section 8 of article I of the Constitution relating to providing for the general welfare and to regulation of commerce among the several States, and under section 5 of the 14th amendment to the Constitution—

(1) to promote the national interest in reducing domestic violence, dating violence, sexual assault, and stalking by enabling victims of domestic violence, dating violence, sexual assault, or stalking to maintain the financial independence necessary to leave abusive situations, achieve safety, and minimize the physical and emotional injuries from domestic violence, dating violence, sexual assault, or stalking, and to reduce the devastating economic consequences of domestic violence, dating violence, sexual assault, or stalking to employers and employees;

(2) to promote the national interest in ensuring that victims of domestic violence, dating violence, sexual assault, or stalking can recover from and cope with the effects of domestic violence, dating violence, sexual assault, or stalking, and participate in criminal and civil justice processes, without fear of adverse economic consequences from their employers;

(3) to ensure that victims of domestic violence, dating violence, sexual assault, or stalking can recover from and cope with the effects of domestic violence, dating violence, sexual assault, or stalking, and participate in criminal and civil justice processes, without fear of adverse economic consequences with respect to public benefits;

(4) to promote the purposes of the 14th amendment to the Constitution by preventing sex-based discrimination and discrimination against victims of domestic violence, dating violence, sexual assault, or stalking in employment, by addressing the failure of existing laws to protect the employment rights of victims of domestic violence, dating violence, sexual assault, or stalking, by protecting the civil and economic rights of victims of domestic violence, dating violence, sexual assault, or stalking, and by furthering the equal opportunity of women for economic self-sufficiency and employment free from discrimination;

(5) to minimize the negative impact on interstate commerce from dislocations of employees and harmful effects on productivity, employment, health care costs, and employer costs, caused by domestic violence, dating violence, sexual assault, or stalking, including intentional efforts to frustrate women's ability to participate in employment and interstate commerce; and

(6) to accomplish the purposes described in paragraphs (1) through (5) by prohibiting employers from discriminating against actual or perceived victims of domestic violence, dating violence, sexual assault, or stalking, in a manner that accommodates the legitimate interests of employers and protects the safety of all persons in the workplace.

SEC. 303. PROHIBITED DISCRIMINATORY ACTS.

(a) IN GENERAL.—An employer shall not fail to hire, refuse to hire, discharge, or harass any individual, or otherwise discriminate against any individual with respect to the compensation, terms, conditions, or privileges of employment of the individual (including retaliation in any form or manner), and a public agency shall not deny, reduce, or terminate the benefits of, otherwise sanction, or harass any individual, or otherwise discriminate against any individual with respect to the amount, terms, or conditions of public assistance of the individual (including retaliation in any form or manner), because—

(1) the individual involved—

(A) is or is perceived to be a victim of domestic violence, dating violence, sexual assault, or stalking;

(B) attended, participated in, prepared for, or requested leave to attend, participate in, or prepare for, a criminal or civil court proceeding relating to an incident of domestic violence, dating violence, sexual assault, or stalking of which the individual, or the family or household member of the individual, was a victim; or

(C) requested an adjustment to a job structure, workplace facility, or work requirement, including a transfer, reassignment, or modified schedule, leave, a changed telephone number or seating assignment, installation of a lock, or implementation of a safety procedure, in response to actual or threatened domestic violence, dating violence, sexual assault, or stalking, regardless of whether the request was granted; or

(2) the workplace is disrupted or threatened by the action of a person whom the individual states has committed or threatened to commit domestic violence, dating violence, sexual assault, or stalking against the individual, or the individual's family or household member.

(b) DEFINITIONS.—In this section:

(1) DISCRIMINATE.—The term ''discriminate'', used with respect to the terms, conditions, or privileges of employment or with respect to the terms or conditions of public assistance, includes not making a reasonable accommodation to the known limitations of an otherwise qualified individual—

(A) who is a victim of domestic violence, dating violence, sexual assault, or stalking;

(B) who is—

(i) an applicant or employee of the employer (including a public agency) that employs individuals as described in section 3(e)(2) of the Fair Labor Standards Act of 1938 (29 U.S.C. 603(e)(2)); or

(ii) an applicant for or recipient of public assistance from a public agency; and

(C) whose limitations resulted from circumstances relating to being a victim of domestic violence, dating violence, sexual assault, or stalking;

unless the employer or public agency can demonstrate that the accommodation would impose an undue hardship on the operation of the employer or public agency.

(2) QUALIFIED INDIVIDUAL.—The term ''qualified individual'' means—

(A) in the case of an applicant or employee described in paragraph (1)(B)(i), an individual who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires; or

(B) in the case of an applicant or recipient described in paragraph (1)(B)(ii), an individual who, with or without reasonable accommodation, can satisfy the essential requirements of the program providing the public assistance that the individual receives or desires.

(3) REASONABLE ACCOMMODATION.—The term ''reasonable accommodation'' may include an adjustment to a job structure, workplace facility, or work requirement, including a transfer, reassignment, or modified schedule, leave, a changed telephone number or seating assignment, installation of a lock, or implementation of a safety procedure, in response to actual or threatened domestic violence, dating violence, sexual assault, or stalking.

(4) UNDUE HARDSHIP.—

(A) IN GENERAL.—The term ''undue hardship'' means an action requiring significant difficulty or expense, when considered in light of the factors set forth in subparagraph (B).

(B) FACTORS TO BE CONSIDERED.—In determining whether a reasonable accommodation would impose an undue hardship on the operation of an employer or public agency, factors to be considered include—

(i) the nature and cost of the reasonable accommodation needed under this section;

(ii) the overall financial resources of the facility involved in the provision of the reasonable accommodation, the number of persons employed at such facility, the effect on expenses and resources, or the impact otherwise of such accommodation on the operation of the facility;

(iii) the overall financial resources of the employer or public agency, the overall size of the business of an employer or public agency with respect to the number of employees of the employer or public agency, and the number, type, and location of the facilities of an employer or public agency; and

(iv) the type of operation of the employer or public agency, including the composition, structure, and functions of the workforce of the employer or public agency, the geographic separateness of the facility from the employer or public agency, and the administrative or fiscal relationship of the facility to the employer or public agency.

SEC. 304. ENFORCEMENT.

(a) CIVIL ACTION BY INDIVIDUALS.—

(1) LIABILITY.—Any employer that violates section 303 shall be liable to any individual affected for—

(A) damages equal to the amount of wages, salary, employment benefits, or other compensation denied or lost to such individual by reason of the violation, and the interest on that amount calculated at the prevailing rate;

(B) compensatory damages, including damages for future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment or life, and other nonpecuniary losses;

(C) such punitive damages, up to 3 times the amount of actual damages sustained, as the court described in paragraph (2) shall determine to be appropriate; and

(D) such equitable relief as may be appropriate, including employment, reinstatement, and promotion.

(2) RIGHT OF ACTION.—An action to recover the damages or equitable relief prescribed in paragraph (1) may be maintained against any employer in any Federal or State court of competent jurisdiction by any 1 or more individuals described in section 303.

(b) ACTION BY DEPARTMENT OF JUSTICE.—The Attorney General may bring a civil action in any Federal or State court of competent jurisdiction to recover the damages or equitable relief described in subsection (a)(1).

(c) LIBRARY OF CONGRESS.—Notwithstanding any other provision of this section, in the case of the Library of Congress, the authority of the Secretary under this section shall be exercised by the Librarian of Congress.

(d) CERTAIN PUBLIC AGENCY EMPLOYERS.—

(1) AGENCIES.—Notwithstanding any other provision of this subsection, in the case of a public agency that employs individuals as described in subparagraph (A) or (B) of section 3(e)(2) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)(2)) (other than an entity of the legislative branch of the Federal Government), paragraph (2) shall apply.

(2) AUTHORITY.—In the case described in subparagraph (A), the powers, remedies, and procedures provided (in the case of a violation of section 2302(b)(1)(A) of title 5, United States Code) in title 5, United States Code, to an employing agency, the Office of Special Counsel, the Merit Systems Protection Board, or any person alleging a violation of such section 2302(b)(1)(A), shall be the powers, remedies, and procedures this section provides in the case of a violation of section 303 to that agency, that Office, that Board, or any person alleging a violation of section 303, respectively, against an employee who is such an individual.

(e) PUBLIC AGENCIES PROVIDING PUBLIC ASSISTANCE.—Consistent with regulations prescribed under section 306(d), the President shall ensure that any public agency that violates section 303(a) by taking an action prohibited under section 303(a) against any individual with respect to the amount, terms, or conditions of public assistance, shall provide to any individual who receives a less favorable amount, term, or condition of public assistance as a result of the violation—

(1)(A) the amount of any public assistance denied or lost to such individual by reason of the violation; and

(B) the interest on the amount described in clause (i) calculated at the prevailing rate; and

(2) such equitable relief as may be appropriate.

SEC. 305. ATTORNEY'S FEES.

Section 722(b) of the Revised Statutes (42 U.S.C. 1988(b)) is amended by inserting ''the Victims' Employment Sustainability Act,'' after ''title VI of the Civil Rights Act of 1964,''.

SEC. 306. REGULATIONS.

(a) IN GENERAL.—Except as provided in subsections (b), (c), and (d), the Secretary shall issue regulations to carry out this title.

(b) LIBRARY OF CONGRESS.—The Librarian of Congress shall prescribe the regulations described in subsection (a) with respect to employees of the Library of Congress. The regulations prescribed under this subsection shall, to the extent appropriate, be consistent with the regulations prescribed by the Secretary under subsection (a).

(c) CERTAIN PUBLIC AGENCY EMPLOYERS.—The Office of Personnel Management, after consultation under the Office of Special Counsel and the Merit Systems Protection Board, shall prescribe the regulations described in subsection (a) with respect to individuals described in subparagraph (A) or (B) of section 3(e)(2) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)(2)) (other than an individual employed by an entity of the legislative branch of the Federal Government). The regulations prescribed under this subsection shall, to the extent appropriate, be consistent with the regulations prescribed by the Secretary under subsection (a).

(d) PUBLIC AGENCIES PROVIDING PUBLIC ASSISTANCE.—The President shall prescribe the regulations described in subsection (a) with respect to applicants for and recipients of public assistance, in the case of violations of section 303(a) by taking an action prohibited under section 303(a) against any individual with respect to the amount, terms, or conditions of public assistance. The regulations prescribed under this subsection shall, to the extent appropriate, be consistent with the regulations prescribed by the Secretary under subsection (a).

TITLE IV—VICTIMS OF ABUSE INSURANCE PROTECTION

SEC. 401. SHORT TITLE.

This title may be cited as the ''Victims of Abuse Insurance Protection Act''.

SEC. 402. DEFINITIONS.

In this title:

(1) ABUSE.—The term ''abuse'' means the occurrence of 1 or more of the following acts by a current or former household or family member, intimate partner, or caretaker:

(A) Attempting to cause or causing another person bodily injury, physical harm, substantial emotional distress, or psychological trauma.

(B) Attempting to engage in or engaging in rape, sexual assault, or involuntary sexual intercourse.

(C) Engaging in a course of conduct or repeatedly committing acts toward another person, including following the person without proper authority and under circumstances that place the person in reasonable fear of bodily injury or physical harm.

(D) Subjecting another person to false imprisonment or kidnapping.

(E) Attempting to cause or causing damage to property so as to intimidate or attempt to control the behavior of another person.

(2) HEALTH CARRIER.—The term ''health carrier'' means a person that contracts or offers to contract on a risk-assuming basis to provide, deliver, arrange for, pay for, or reimburse any of the cost of health care services, including a sickness and accident insurance company, a health maintenance organization, a nonprofit hospital and health service corporation, or any other entity providing a plan of health insurance, health benefits, or health services.

(3) INSURED.—The term ''insured'' means a party named on a policy, certificate, or health benefit plan, including an individual, corporation, partnership, association, unincorporated organization, or any similar entity, as the person with legal rights to the benefits provided by the policy, certificate, or health benefit plan. For group insurance, the term includes a person who is a beneficiary covered by a group policy, certificate, or health benefit plan. For life insurance, the term refers to the person whose life is covered under an insurance policy.

(4) INSURER.—The term ''insurer'' means any person, reciprocal exchange, inter insurer, Lloyds insurer, fraternal benefit society, or other legal entity engaged in the business of insurance, including agents, brokers, adjusters, and third-party administrators. The term includes employers who provide or make available employment benefits through an employee benefit plan, as defined in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 102(3)). The term also includes health carriers, health benefit plans, and life, disability, and property and casualty insurers.

(5) POLICY.—The term ''policy'' means a contract of insurance, certificate, indemnity, suretyship, or annuity issued, proposed for issuance, or intended for issuance by an insurer, including endorsements or riders to an insurance policy or contract.

(6) SUBJECT OF ABUSE.—The term ''subject of abuse'' means—

(A) a person against whom an act of abuse has been directed;

(B) a person who has prior or current injuries, illnesses, or disorders that resulted from abuse; or

(C) a person who seeks, may have sought, or had reason to seek medical or psychological treatment for abuse, protection, court-ordered protection, or shelter from abuse.

SEC. 403. DISCRIMINATORY ACTS PROHIBITED.

(a) IN GENERAL.—No insurer may, directly or indirectly, engage in any of the following acts or practices on the basis that the applicant or insured, or any person employed by the applicant or insured or with whom the applicant or insured is known to have a relationship or association, is, has been, or may be the subject of abuse or has incurred or may incur abuse-related claims:

(1) Denying, refusing to issue, renew, or reissue, or canceling or otherwise terminating an insurance policy or health benefit plan.

(2) Restricting, excluding, or limiting insurance coverage for losses or denying a claim, except as otherwise permitted or required by State laws relating to life insurance beneficiaries.

(3) Adding a premium differential to any insurance policy or health benefit plan.

(b) PROHIBITION ON LIMITATION OF CLAIMS.—No insurer may, directly or indirectly, deny or limit payment to an insured who is a subject of abuse if the claim for payment is a result of the abuse.

(c) PROHIBITION ON TERMINATION.—

(1) IN GENERAL.—No insurer or health carrier may terminate health coverage for a subject of abuse because coverage was originally issued in the name of the abuser and the abuser has divorced, separated from, or lost custody of the subject of abuse or the abuser's coverage has terminated voluntarily or involuntarily and the subject of abuse does not qualify for an extension of coverage under part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.) or section 4980B of the Internal Revenue Code of 1986.

(2) PAYMENT OF PREMIUMS.—Nothing in paragraph (1) shall be construed to prohibit the insurer from requiring that the subject of abuse pay the full premium for the subject's coverage under the health plan if the requirements are applied to all insured of the health carrier.

(3) EXCEPTION.—An insurer may terminate group coverage to which this subsection applies after the continuation coverage period required by this subsection has been in force for 18 months if it offers conversion to an equivalent individual plan.

(4) CONTINUATION COVERAGE.—The continuation of health coverage required by this subsection shall be satisfied by any extension of coverage under part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.) or section 4980B of the Internal Revenue Code of 1986 provided to a subject of abuse and is not intended to be in addition to any extension of coverage otherwise provided for under such part 6 or section 4980B.

(d) USE OF INFORMATION.—

(1) LIMITATION.—

(A) IN GENERAL.—In order to protect the safety and privacy of subjects of abuse, no person employed by or contracting with an insurer or health benefit plan may (without the consent of the subject)—

(i) use, disclose, or transfer information relating to abuse status, acts of abuse, abuse-related medical conditions, or the applicant's or insured's status as a family member, employer, associate, or person in a relationship with a subject of abuse for any purpose unrelated to the direct provision of health care services unless such use, disclosure, or transfer is required by an order of an entity with authority to regulate insurance or an order of a court of competent jurisdiction; or

(ii) disclose or transfer information relating to an applicant's or insured's mailing address or telephone number or the mailing address and telephone number of a shelter for subjects of abuse, unless such disclosure or transfer—

(I) is required in order to provide insurance coverage; and

(II) does not have the potential to endanger the safety of a subject of abuse.

(B) RULE OF CONSTRUCTION.—Nothing in this paragraph may be construed to limit or preclude a subject of abuse from obtaining the subject's own insurance records from an insurer.

(2) AUTHORITY OF SUBJECT OF ABUSE.—A subject of abuse, at the absolute discretion of the subject of abuse, may provide evidence of abuse to an insurer for the limited purpose of facilitating treatment of an abuse-related condition or demonstrating that a condition is abuse-related. Nothing in this paragraph shall be construed as authorizing an insurer or health carrier to disregard such provided evidence.

SEC. 404. INSURANCE PROTOCOLS FOR SUBJECTS OF ABUSE.

Insurers shall develop and adhere to written policies specifying procedures to be followed by employees, contractors, producers, agents, and brokers for the purpose of protecting the safety and privacy of a subject of abuse and otherwise implementing this title when taking an application, investigating a claim, or taking any other action relating to a policy or claim involving a subject of abuse.

SEC. 405. REASONS FOR ADVERSE ACTIONS.

An insurer that takes an action that adversely affects a subject of abuse, shall advise the applicant or insured who is the subject of abuse of the specific reasons for the action in writing. For purposes of this section, reference to general underwriting practices or guidelines shall not constitute a specific reason.

SEC. 406. LIFE INSURANCE.

Nothing in this title shall be construed to prohibit a life insurer from declining to issue a life insurance policy if the applicant or prospective owner of the policy is or would be designated as a beneficiary of the policy, and if—

(1) the applicant or prospective owner of the policy lacks an insurable interest in the insured; or

(2) the applicant or prospective owner of the policy is known, on the basis of police or court records, to have committed an act of abuse against the proposed insured.

SEC. 407. SUBROGATION WITHOUT CONSENT PROHIBITED.

Subrogation of claims resulting from abuse is prohibited without the informed consent of the subject of abuse.

SEC. 408. ENFORCEMENT.

(a) FEDERAL TRADE COMMISSION.—Any act or practice prohibited by this title shall be treated as an unfair and deceptive act or practice pursuant to section 5 of the Federal Trade Commission Act (15 U.S.C. 45) and the Federal Trade Commission shall enforce this title in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this title, including issuing a cease and desist order granting any individual relief warranted under the circumstances, including temporary, preliminary, and permanent injunctive relief and compensatory damages.

(b) PRIVATE CAUSE OF ACTION.—

(1) IN GENERAL.—An applicant or insured who believes that the applicant or insured has been adversely affected by an act or practice of an insurer in violation of this title may maintain an action against the insurer in a Federal or State court of original jurisdiction.

(2) RELIEF.—Upon proof of such conduct by a preponderance of the evidence in an action described in paragraph (1), the court may award appropriate relief, including temporary, preliminary, and permanent injunctive relief and compensatory and punitive damages, as well as the costs of suit and reasonable fees for the aggrieved individual's attorneys and expert witnesses.

(3) STATUTORY DAMAGES.—With respect to compensatory damages in an action described in paragraph (1), the aggrieved individual may elect, at any time prior to the rendering of final judgment, to recover in lieu of actual damages, an award of statutory damages in the amount of $5,000 for each violation.

SEC. 409. EFFECTIVE DATE.

This title shall apply with respect to any action taken on or after the date of enactment of this Act.

TITLE V—NATIONAL CLEARINGHOUSE AND RESOURCE CENTER ON DOMESTIC AND SEXUAL VIOLENCE IN THE WORKPLACE GRANT

SEC. 501. NATIONAL CLEARINGHOUSE AND RESOURCE CENTER ON DOMESTIC AND SEXUAL VIOLENCE IN THE WORKPLACE GRANT.

(a) AUTHORITY.—The Attorney General may award a grant in accordance with this section to a private, nonprofit entity or tribal organization that meets the requirements of subsection (b), in order to provide for the establishment and operation of a national clearinghouse and resource center to provide information and assistance to employers, labor organizations, and advocates on behalf of victims of domestic violence, dating violence, sexual assault, or stalking, to aid in their efforts to develop and implement appropriate responses to domestic violence, dating violence, sexual assault, or stalking to assist those victims.

(b) APPLICATIONS.—To be eligible to receive a grant under this section, an entity or organization shall submit an application to the Attorney General at such time, in such manner, and containing such information as the Attorney General may require, including—

(1) information that demonstrates that the applicant—

(A) has nationally recognized expertise in the area of domestic violence, dating violence, sexual assault, or stalking and a record of commitment to reducing, and quality responses to reduce, domestic violence, dating violence, sexual assault, or stalking; and

(B) will provide matching funds from non-Federal sources in an amount equal to not less than 10 percent of the total amount of the grant awarded under this section; and

(2) a plan to maximize, to the extent practicable, outreach—

(A) to employers (including private companies, and public entities such as public institutions of higher education and State and local governments) and labor organizations in developing and implementing appropriate responses to assist employees who are victims of domestic violence, dating violence, sexual assault, or stalking; and

(B) to advocates described in subsection (a), in developing and implementing appropriate responses to assist victims of domestic violence, dating violence, sexual assault, or stalking.

(c) USE OF GRANT AMOUNT.—

(1) IN GENERAL.—An entity or organization that receives a grant under this section may use the funds made available through the grant for staff salaries, travel expenses, equipment, printing, and other reasonable expenses necessary to develop, maintain, and disseminate to employers, labor organizations, and advocates described in subsection (a), information on and assistance concerning appropriate responses to assist victims of domestic violence, dating violence, sexual assault, or stalking.

(2) RESPONSES.—Responses referred to in paragraph (1) may include—

(A) providing training to promote a better understanding of appropriate assistance to victims of domestic violence, dating violence, sexual assault, or stalking;

By Mr. CORZINE (for himself, Mr. JOHNSON, Mr. LAUTENBERG, and Ms. STABENOW):

S. 1798. A bill to amend titles XI and XVIII of the Social Security Act to prohibit outbound call telemarketing to individuals eligible to receive benefits under title XVIII of such Act; to the Committee on Finance.

Mr. CORZINE. Mr. President, I rise today to introduce legislation, the Medicare Do Not Call Act, to prohibit private insurance companies from telemarketing their Medicare prescription drug and Medicare Advantage plans to Medicare beneficiaries. I am very pleased to be introducing this bill along with my colleagues, Senators JOHNSON and LAUTENBERG. I thank my colleagues for their support of this important legislation.

Beginning this Saturday, October 1, private insurance plans offering Medicare prescription drug coverage will begin marketing their products to Medicare beneficiaries.

Depending on which Medicare region they live in, beneficiaries will be confronted with selecting from as many as 20 stand-alone prescription different plans. In New Jersey, beneficiaries will choose among 17 different plans. Under current law, these plans can both send mail to and call seniors and people with disabilities who are eligible to enroll in the Medicare Part D benefit. As a result, in addition to being flooded with mail, our seniors and disabled will be flooded with phone calls.

I am extremely concerned that permitting plans to telemarket creates great potential for unscrupulous individuals and businesses to defraud this vulnerable population. Even if the plans themselves are honest brokers, it may be difficult for a senior or disabled beneficiary to distinguish between who is honest and who is not.

I am very concerned that such individuals may seize the opportunity to take advantage of this vulnerable population. Unless we act now, there will be an endless potential for fraud and identity theft within the Medicare Part D plan.

Beneficiaries are already confused about what their rights are with respect to the new prescription drug benefit. A senior who is told that she must provide her Social Security or credit card number to a telemarketer in order to obtain Medicare prescription drug coverage may feel compelled to do so, lest she forgo her opportunity to obtain prescription drug coverage.

Concerns about telemarketing fraud against seniors are very real. The Department of Justice estimates that telemarketing crooks cheat one out of six consumers every year, resulting in costs to Americans of $40 billion a year. Americans over 65, our Nation's seniors, are the primary target of these scams.

At a time when identity theft is at an all time high, the Federal government should take every precaution available to protect the American public. We should not permit government-sponsored programs, such as the Medicare prescription drug program, to engage in telemarketing. The best way to prevent such fraud from occurring is to prohibit telemarketing of any and all Medicare sponsored prescription drug products. The Medicare Do Not Call Act will do just that. My legislation imposes serious criminal penalties on unscrupulous individuals and companies that seek to defraud Medicare beneficiaries through telemarketing appeals. We must do everything we can to protect this vulnerable population.

The bottom line is that telemarketing simply is not necessary to educate seniors about their prescription drug options. My legislation permits insurance companies who are contacted by beneficiaries to discuss plan options with them. As beneficiaries talk to trusted friends and organizations and read over the literature about the different drugs plans, they can then contact plans to discuss their options further. My legislation does not stop beneficiaries from speaking to these companies; it simply prohibits these companies from making the initial 'cold call' to beneficiaries.

I deeply believe that the Federal government has a responsibility to do everything in its power to prevent telemarketing fraud. Permitting drug plans to telemarket to seniors and people with disabilities may provide a source of information to these individuals; however, because each plan wants to sell their own products, telemarketers may not provide the most objective information about a beneficiary's options.

There are better ways to educate seniors and disabled about the prescription drug benefit. The Medicare Do Not Call Act provides additional resources—$2 per Medicare beneficiary—to the State Health Insurance Counseling and Assistance Programs (SHIPs) to provide counseling and enrollment assistance services to Medicare beneficiaries. SHIPs provide valuable objective information to beneficiaries and can provide tremendous assistance in helping beneficiaries select the plan that best suits their needs.

I urge all of my colleagues to join me in supporting this legislation. By prohibiting these un-invited calls we can protect seniors and other Medicare beneficiaries from fraudulent intentions and ensure that this complicated transition within the Medicare program be as straightforward, and safe, as possible.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

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

S. 1798

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 ''Medicare Do Not Call Act''.

SEC. 2. TELEMARKETING PROHIBITED.

(a) PRESCRIPTION DRUG PLANS.—Section 1860D–4(a) of the Social Security Act (42 U.S.C. 1395w–104(a)) is amended by adding at the end the following new paragraph:

''(5) PROHIBITION ON TELEMARKETING.—

''(A) IN GENERAL.—A PDP sponsor offering a prescription drug plan shall be prohibited from conducting outbound call telemarketing (as defined in subparagraph (B)) for the purpose of soliciting enrollment into such a plan under this part.

''(B) OUTBOUND CALL TELEMARKETING DEFINED.—

''(i) IN GENERAL.—Except as provided in clause (ii), for purposes of this paragraph, the term 'outbound call telemarketing' means a telephone call initiated by a telemarketer—

''(I) to induce the purchase of goods or services; or

''(II) to solicit a charitable contribution.

''(ii) CATALOG MAILINGS NOT INCLUDED IN DEFINITION OF OUTBOUND CALL TELEMARKETING.—Such term does not include—

''(I) the mailing of a catalog; or

''(II) the receipt or return of a telephone call initiated by a customer in response to such mailing.''.

(b) MEDICARE ADVANTAGE ORGANIZATIONS.—Section 1851(h) of the Social Security Act (42 U.S.C. 1395w–21(h)) is amended by adding at the end the following new paragraph:

''(6) PROHIBITION ON TELEMARKETING.—A Medicare Advantage organization offering a Medicare Advantage plan shall be prohibited from conducting outbound call telemarketing (as defined in section 1860D–4(a)(5)(B)) for the purpose of soliciting enrollment into such a plan under this part.''.

(c) CRIMINAL PENALTIES FOR FRAUDULENT TELEMARKETING.—Section 1128B of the Social Security Act (42 U.S.C. 1320a–7b) is amended by adding at the end the following new subsection:

''(g) Whoever knowingly and willfully engages in deceptive or abusive telemarketing acts or practices (as defined in part 310.3 and part 310.4, respectively, of title 16, Code of Federal Regulations), or makes any false statement or representation of a material fact while conducting outbound call telemarketing (as defined in section 1860D–4(a)(5)(B)) with respect to a prescription drug plan offered by a PDP sponsor under part D of title XVIII, a Medicare Advantage plan offered by a Medicare Advantage organization under part C of such title, or who falsely alleges to be conducting outbound call telemarketing (as so defined) with respect to either such a plan, shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than five years, or both.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.

SEC. 3. INCREASED FUNDING FOR STATE HEALTH INSURANCE COUNSELING AND ASSISTANCE PROGRAMS.

(a) IN GENERAL.—There are hereby appropriated to the Secretary of Health and Human Services (in this Act referred to as the ''Secretary'') an amount equal to $2 multiplied by the total number of individuals eligible for benefits under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.). Such funds shall—

(1) be used by the Secretary to award grants to States under section 4360 of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 1395b–4); and

(2) remain available until expended.

(b) ALLOCATION OF GRANT FUNDS.—The Secretary shall ensure that funds appropriated under this section are allocated to States in an amount equal to the proportion of the number of residents in the State that are eligible for benefits under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) in

relation to the total number of individuals eligible for such benefits under such title.

SEC. 4. INFORMING BENEFICIARIES OF THE HHS TIPS HOT-LINE.

The Secretary shall take appropriate measures to inform individuals eligible for benefits under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) of the availability and confidentiality of the hotline maintained , by the Inspector General of the Department of Health and Human Services for the reporting of fraud, waste, and I abuse in the medicare program.

By Ms. MIKULSKI (for herself, Mr. VOINOVICH, Mr. AKAKA, Mr. BIDEN, Mr. DORGAN, Mr. DURBIN, Mr. HARKIN, Mrs. MURRAY, Mr. SARBANES, Mr. SCHUMER, and Mr. WARNER):

S. 1799. A bill to amend title II of the Social Security Act to provide that the reductions in Social Security benefits which are required in the case of spouses and surviving spouses who are also receiving certain government pensions shall be equal to the amount by which two-thirds of the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds $1,200, adjusted for inflation; to the Committee on Finance.

Ms. MIKULSKI. Mr. President, I rise today to talk about an issue that is very important to me, very important to my constituents in Maryland and very important to government workers and retirees across the Nation. I am reintroducing a bill to modify a cruel rule of government that is unfair and prevents current workers from enjoying the benefits of their hard work during retirement. My bill has bipartisan support and had 29 cosponsors last year. With this strong bipartisan support, I hope that we can correct this cruel rule of government this year.

Under current law, a Social Security spousal benefit is reduced or entirely eliminated if the surviving spouse is eligible for a pension from a local, State or Federal Government job that was not covered by Social Security. This policy is known as the Government Pension Offset.

This is how the current law works. Consider a surviving spouse who retires from government service and receives a government pension of $600 a month. She also qualifies for a Social Security spousal benefit of $645 a month. Because of the Pension Offset law, which reduces her Social Security benefit by 2/3 of her government pension, her spousal benefit is reduced to $245 a month. So instead of $1,245, she will receive only $845 a month. That is $400 a month less to pay the rent, purchase a prescription medication, or buy groceries. I think that is wrong.

My bill does not repeal the government pension offset entirely, but it will allow retirees to keep more of what they deserve. It guarantees that those subject to the offset can keep at least $1,200 a month in combined retirement income. With my modification, the 2/3 offset would apply only to the combined benefit that exceeds $1,200 a month. So, in the example above, the surviving spouse would face only a $30 offset, allowing her to keep $1,215 in monthly income.

Unfortunately, the current law disproportionately affects women. Women are more likely to receive Social Security spousal benefits and to have worked in low-paying or short-term government positions while they were raising families. It is also true that women receive smaller government pensions because of their lower earnings, and rely on Social Security benefits to a greater degree. My modification will allow these women who have contributed years of important government service and family service to rely on a larger amount of retirement income.

Why do we punish people who have committed a significant portion of their lives to government service? We are talking about workers who provide some of the most important services to our community—teachers, firefighters, and many others. Some have already retired. Others are currently working and looking forward to a deserved retirement. These individuals deserve better than the reduced monthly benefits that the Pension Offset currently requires.

Government employees work hard in service to our Nation, and I work hard for them. I do not want to see them penalized simply because they have chosen to work in the public sector, rather than for a private employer, and often at lower salaries and sometimes fewer benefits. If a retired worker in the private sector received a pension, and also received a spousal Social Security benefit, they would not be subject to the Offset. I think we should be looking for ways to reward government service, not the other way around. I believe that people who work hard and play by the rules should not be penalized by arcane, legislative technicalities.

Frankly, I would like to repeal the offset altogether. But, I realize that budget considerations make that unlikely. As a compromise, I hope we can agree that retirees who have worked hard all their lives should not have this offset applied until their combined monthly benefit, both government pension and Social Security spousal benefit, exceeds $1,200.

I also strongly believe that we should ensure that retirees buying power keeps up with the cost of living. That's why I have also included a provision in this legislation to index the $1,200 amount to inflation so retirees will see their minimum benefits increase along with the cost of living.

The Social Security Administration recently estimated that enacting the provisions contained in my bill will have a minimal long-term impact on the Social Security Trust Fund—about 0.01 percent of taxable payroll.

I urge my colleagues to join me in this effort and support my legislation to modify the Government Pension Offset. I ask unanimous consent that the text of my bill be printed in the RECORD.

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

S. 1799

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 ''Government Pension Offset Reform Act''.

SEC. 2. LIMITATION ON REDUCTIONS IN BENEFITS FOR SPOUSES AND SURVIVING SPOUSES RECEIVING GOVERNMENT PENSIONS.

(a) INSURANCE BENEFITS.—Section 202(k)(5)(A) of the Social Security Act (42 U.S.C. 402(k)(5)(A)) is amended—

(1) by inserting ''the amount (if any) by which the sum of such benefit (before reduction under this paragraph) and'' after ''two-thirds of ''; and

(2) by inserting ''exceeds the amount described in paragraph (6) for such month,'' before ''if ''.

(b) AMOUNT DESCRIBED.—Section 202(k) of the Social Security Act (42 U.S.C. 402(k)) is amended by adding at the end the following:

''(6) The amount described in this paragraph is, for months in each 12-month period beginning in December of 2005, and each succeeding calendar year, the greater of—

''(A) $1,200; or

''(B) the amount applicable for months in the preceding 12-month period, increased by the cost-of-living adjustment for such period determined for an annuity under section 8340 of title 5, United States Code (without regard to any other provision of law).''.

(c) LIMITATIONS ON REDUCTIONS IN BENEFITS.—Section 202(k) of the Social Security Act (42 U.S.C. 402(k)), as amended by subsection (b), is amended by adding at the end the following:

''(7) For any month after December 2005, in no event shall an individual receive a reduction in a benefit under paragraph (5)(A) for the month that is more than the reduction in such benefit that would have applied for such month under such paragraph as in effect on December 1, 2005.''.

SEC. 3. EFFECTIVE DATE.

The amendments made by section 2 shall apply with respect to monthly insurance benefits payable under title II of the Social Security Act for months after December 2005.

By Ms. SNOWE (for herself, Mr. ROCKEFELLER, and Mr. BUNNING):

S. 1800. A bill to amend the Internal Revenue Code of 1986 to extend the new markets tax credit; to the Committee on Finance.

Ms. SNOWE. Mr. President, today I rise to introduce legislation that would re-authorize the New Markets Tax Credit for five additional years. I'd like to thank the Senator from West Virginia, JAY ROCKEFELLER, for cosponsoring this legislation, as well as Senator JIM BUNNING. Their strong support is appreciated, and this program will help revitalize many communities all across America.

The New Markets Tax Credit was enacted in December 2000 as part of the Community Renewal Tax Relief Act and offers a seven-year, 39 percent Federal credit made through investment vehicles known as Community Development Entities (CDEs). CDEs combine private investment dollars with capital

raised through the incentive to make loans to or investments in businesses in low-income communities.

In its brief period of existence, the New Markets Tax Credit has had a tremendous success in strengthening and revitalizing communities. In Maine, Coastal Enterprises, Inc. issued a $31.5 million long-term NMTC loan to Katahdin Forest Management, which provided additional working capital for two large pulp and paper mills. These investments resulted in the direct employment of 650 people and potential jobs for another 200. The Katahdin Project has helped to diversify the area economy through the development of new, high-value wood processing enterprises and recreational tourism.

CDEs have also invested in a new child care facility on Chicago's west side, the first new supermarket and shopping center in inner-city Cleveland in 30 years and a new aerospace facility in rural Oklahoma.

All of these projects demonstrate the revitalization and strengthening of communities that the Credit is helping to make possible. In only 3 years, CDEs have raised $2 billion of capital for direct investment in economically distressed communities across the Nation. This impressive activity over a short period of time points to the need and opportunity for such investment in low-income communities.

Unfortunately, as effective as the New Markets Tax Credit has been, demand for the incentive has far exceeded supply. In fact, the average demand in the first three rounds was a staggering 10 times the amount of available credits. The Treasury Department awarded the first round of $2.5 billion in tax credits in March 2003, a second round of $3.5 billion in May 2004, and a third round worth $2 billion in May 2005.

Despite the track record of the New Markets Tax Credit and continued demand for the incentive, it will expire at the end of 2007. Congress must reauthorize this Credit to ensure investment capital continues to flow to our most disadvantaged communities. Our bill renews this valuable incentive for 5 additional years, through 2012, with an annual credit volume of $3.5 billion per year, adjusted for inflation.

It is critical that Congress act to renew the New Markets Tax Credit. It is a modest incentive that clearly works for our most vulnerable communities. I look forward to working with Finance Committee Chairman GRASSLEY to re-authorize the Credit and to ensure that it includes all areas of the country, including rural areas underserved by traditional investments.

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. 1800

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 ''New Markets Tax Credit Reauthorization Act of 2005''.

SEC. 2. EXTENSION OF NEW MARKETS TAX CREDIT.

(a) EXTENSION.—

(1) IN GENERAL.—Paragraph (1) of section 45D(f) of the Internal Revenue Code of 1986 (relating to new markets tax credit) is amended to read as follows:

''(1) IN GENERAL.—There is a new markets tax credit limitation of $3,500,000,000 for each of calendar years 2008 through 2012.''.

(2) CONFORMING AMENDMENT.—Paragraph (3) of section 45D(f) of such Code is amended by striking ''2014'' and inserting ''2019''.

(b) INFLATION ADJUSTMENT.—Subsection (f) of section 45D of such Code is amended by inserting at the end the following new paragraph:

''(4) INFLATION ADJUSTMENT.—

''(A) IN GENERAL.—In the case of any calendar year beginning after 2008, the dollar amount in paragraph (1) shall be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, determined by substituting 'calendar year 2007' for 'calendar year 1992' in subparagraph (B) thereof.

''(B) ROUNDING RULE.—If a dollar amount in paragraph (1), as increased under subparagraph (A), is not a multiple of $1,000,000, such amount shall be rounded to the nearest multiple of $1,000,000.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

By Mr. REED (for himself, Mr. ALLARD, Ms. COLLINS, Mr. SARBANES, Mr. BOND, Mrs. MURRAY, Mr. CHAFEE, Ms. MIKULSKI, Mr. DODD, Mr. AKAKA, Mr. SCHUMER, Mr. CORZINE, Mrs. CLINTON, and Ms. LANDRIEU):

S. 1801. A bill to amend the McKinney-Vento Homeless Assistance Act to reauthorize the Act, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. REED. Mr. President, I introduce, along with Senators ALLARD, COLLINS, SARBANES, BOND, MURRAY, CHAFEE, MIKULSKI, DODD, AKAKA, SCHUMER, CORZINE, LANDRIEU, and CLINTON, the Community Partnership to End Homelessness Act of 2005 (CPEHA). This legislation would reauthorize and amend the housing titles of the McKinney-Vento Homeless Assistance Act of 1987. Specifically, our bill would realign the incentives behind the Department of Housing and Urban Development's homelessness assistance programs to accomplish the goals of preventing and ending long-term homelessness.

During the past several weeks, stark pictures of the reality faced by many in the wake of Hurricane Katrina have made more of the country aware of the day-to-day pressures faced by those who are homeless. Unfortunately, as many as 3.5 million Americans experience homelessness each year. Ten to 20 percent are homeless for long periods of time. Many of these Americans have severe disabilities. Many have worn a uniform for our country, with the Veterans Administration estimating that at least 500,000 veterans experience homelessness over the course of a year. Statistics regarding the number of children who experience homelessness are especially troubling. More than one million children experience homelessness each year; that is one in ten poor children in the United States. We have learned that children who are homeless are in poorer health, have developmental delays, and achieve less in school than children who have homes.

Many of those who are homeless have a simple problem—they cannot afford housing. Using the most recent census data, 56 percent of extremely low-income families are paying more than half their income for housing. Between 1990 and 2000, shortages of affordable housing for these families worsened in 44 of the 50 States. In 2000, it was estimated that 4.6 million units of low-income housing would need to be created in order to take care of this problem. As rents have soared and affordable housing units have disappeared from the market during the past five years, even more working Americans have been left unable to afford housing.

So why should the Federal Government work to help prevent and end homelessness? Simply put, we cannot afford not to solve this problem. Homelessness leads to untold costs, including expenses for emergency rooms, jails and shelters, foster care, detoxification, and emergency mental health treatment. It has been almost twenty years since the passage of the McKinney-Vento Homeless Assistance Act of 1987, and we have learned a lot about the problem of homelessness since then.

There is a growing consensus on ways to help communities break the cycle of repeated and prolonged homelessness. If we combine Federal dollars with the right incentives to local communities, we can end long-term homelessness. This bipartisan legislation will do just that. It will reward communities for initiatives that prevent homelessness, promote the development of permanent supportive housing, and optimize self-sufficiency.

The Community Partnership to Help End Homelessness Act of 2005 will set us on the path to meeting an important national goal. I hope my colleagues will join us in supporting this bill and other homelessness prevention efforts.

Mr. President, I ask unanimous consent that the text of the Community Partnership to Help End Homelessness Act of 2005 be printed in the RECORD.

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

S. 1801

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 ''Community Partnership to End Homelessness Act of 2005''.

SEC. 2. FINDINGS AND PURPOSE.

Section 102 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11301) is amended to read as follows:

"SEC. 102. FINDINGS AND PURPOSE.

''(a) FINDINGS.—Congress finds that—

''(1) the United States faces a crisis of individuals and families who lack basic affordable housing and appropriate shelter;

''(2) assistance from the Federal Government is an important factor in the success of efforts by State and local governments and the private sector to address the problem of homelessness in a comprehensive manner;

''(3) there are several Federal Government programs to assist persons experiencing homelessness, including programs for individuals with disabilities, veterans, children, and youth;

''(4) homeless assistance programs must be evaluated on the basis of their effectiveness in reducing homelessness, transitioning individuals and families to permanent housing and stability, and optimizing their self-sufficiency;

''(5) States and units of general local government receiving Federal block grant and other Federal grant funds must be evaluated on the basis of their effectiveness in—

''(A) implementing plans to appropriately discharge individuals to and from mainstream service systems; and

''(B) reducing barriers to participation in mainstream programs, as identified in—

''(i) a report by the Government Accountability Office entitled 'Homelessness: Coordination and Evaluation of Programs Are Essential', issued February 26, 1999; or

''(ii) a report by the Government Accountability Office entitled 'Homelessness: Barriers to Using Mainstream Programs', issued July 6, 2000;

''(6) an effective plan for reducing homelessness should provide a comprehensive housing system (including permanent housing and, as needed, transitional housing) that recognizes that, while some individuals and families experiencing homelessness attain economic viability and independence utilizing transitional housing and then permanent housing, others can reenter society directly and optimize self-sufficiency through acquiring permanent housing;

''(7) supportive housing activities include the provision of permanent housing or transitional housing, and appropriate supportive services, in an environment that can meet the short-term or long-term needs of persons experiencing homelessness as they reintegrate into mainstream society;

''(8) homeless housing and supportive services programs within a community are most effective when they are developed and operated as part of an inclusive, collaborative, locally driven homeless planning process that involves as decision makers persons experiencing homelessness, advocates for persons experiencing homelessness, service organizations, government officials, business persons, neighborhood advocates, and other community members;

''(9) homelessness should be treated as a symptom of many neighborhood, community, and system problems, whose remedies require a comprehensive approach integrating all available resources;

''(10) there are many private sector entities, particularly nonprofit organizations, that have successfully operated outcome-effective homeless programs;

''(11) Federal homeless assistance should supplement other public and private funding provided by communities for housing and supportive services for low-income households;

''(12) the Federal Government has a responsibility to establish partnerships with State and local governments and private sector entities to address comprehensively the problems of homelessness; and

''(13) the results of Federal programs targeted for persons experiencing homelessness have been positive.

''(b) PURPOSE.—It is the purpose of this Act—

''(1) to create a unified and performance-based process for allocating and administering funds under title IV;

''(2) to encourage comprehensive, collaborative local planning of housing and services programs for persons experiencing homelessness;

''(3) to focus the resources and efforts of the public and private sectors on ending and preventing homelessness;

''(4) to provide funds for programs to assist individuals and families in the transition from homelessness, and to prevent homelessness for those vulnerable to homelessness;

''(5) to consolidate the separate homeless assistance programs carried out under title IV (consisting of the supportive housing program and related innovative programs, the safe havens program, the section 8 assistance program for single-room occupancy dwellings, the shelter plus care program, and the rural homeless housing assistance program) into a single program with specific eligible activities;

''(6) to allow flexibility and creativity in re-thinking solutions to homelessness, including alternative housing strategies, outcome-effective service delivery, and the involvement of persons experiencing homelessness in decision making regarding opportunities for their long-term stability, growth, well-being, and optimum self-sufficiency; and

''(7) to ensure that multiple Federal agencies are involved in the provision of housing, health care, human services, employment, and education assistance, as appropriate for the missions of the agencies, to persons experiencing homelessness, through the funding provided for implementation of programs carried out under this Act and other programs targeted for persons experiencing homelessness, and mainstream funding, and to promote coordination among those Federal agencies, including providing funding for a United States Interagency Council on Homelessness to advance such coordination.''.

SEC. 3. UNITED STATES INTERAGENCY COUNCIL ON HOMELESSNESS.

Title II of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11311 et seq.) is amended—

(1) in section 201 (42 U.S.C. 11311), by striking the period at the end and inserting the following: ''whose mission shall be to develop and coordinate the implementation of a national strategy to prevent and end homelessness while maximizing the effectiveness of the Federal Government in contributing to an end to homelessness in the United States.'';

(2) in section 202 (42 U.S.C. 11312)—

(A) in subsection (a)—

(i) by striking ''(16)'' and inserting ''(19)''; and

(ii) by inserting after paragraph (15) the following:

''(16) The Commissioner of Social Security, or the designee of the Commissioner.

''(17) The Attorney General of the United States, or the designee of the Attorney General.

''(18) The Director of the Office of Management and Budget, or the designee of the Director.'';

(B) in subsection (c), by striking ''annually'' and inserting ''2 times each year''; and

(C) by adding at the end the following:

''(e) ADMINISTRATION.—The Assistant to the President for Domestic Policy within the Executive Office of the President shall oversee the functioning of the United States Interagency Council on Homelessness to ensure Federal interagency collaboration and program coordination to focus on preventing and ending homelessness, to increase access to mainstream programs (as identified in a report by the Government Accountability Office entitled 'Homelessness: Barriers to Using Mainstream Programs', issued July 6, 2000) by persons experiencing homelessness, to eliminate the barriers to participation in those programs, to implement a Federal plan to prevent and end homelessness, and to identify Federal resources that can be expended to prevent and end homelessness.'';

(3) in section 203(a) (42 U.S.C. 11313(a))—

(A) by redesignating paragraphs (1), (2), (3), (4), (5), (6), and (7) as paragraphs (2), (3), (4), (5), (8), (9), and (10), respectively;

(B) by inserting before paragraph (2), as redesignated by subparagraph (A), the following:

''(1) not later than 1 year after the date of enactment of the Community Partnership to End Homelessness Act of 2005, develop and submit to the President and to Congress a National Strategic Plan to End Homelessness;'';

(C) in paragraph (5), as redesignated by subparagraph (A), by striking ''at least 2, but in no case more than 5'' and inserting ''not less than 5, but in no case more than 10''; and

(D) by inserting after paragraph (5), as redesignated by subparagraph (A), the following:

''(6) encourage the creation of State Interagency Councils on Homelessness and the formulation of multi-year plans to end homelessness at State, city, and county levels;

''(7) develop mechanisms to ensure access by persons experiencing homelessness to all Federal, State, and local programs for which the persons are eligible, and to verify collaboration among entities within a community that receive Federal funding under programs targeted for persons experiencing homelessness, and other programs for which persons experiencing homelessness are eligible, including mainstream programs identified by the Government Accountability Office in the 2 reports described in section 102(a)(5)(B);''; and

(4) by striking section 208 (42 U.S.C. 11318) and inserting the following:

"SEC. 208. AUTHORIZATION OF APPROPRIATIONS.

''Of any amounts made available for any fiscal year to carry out subtitles B and C of title IV, $3,000,000 shall be allocated to the Assistant to the President for Domestic Policy within the Executive Office of the President to carry out this title.''.

SEC. 4. HOUSING ASSISTANCE GENERAL PROVISIONS.

Subtitle A of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11361 et seq.) is amended—

(1) by striking the subtitle heading and inserting the following:

"Subtitle A—General Provisions";

(2)(A) by redesignating section 401 (42 U.S.C. 11361) as section 403; and

(B) by redesignating section 402 (42 U.S.C. 11362) as section 406;

(3) by inserting before section 403 (as redesignated in paragraph (2)) the following:

"SEC. 401. DEFINITIONS.

''In this title:

''(1) CHRONICALLY HOMELESS.—

''(A) IN GENERAL.—The term 'chronically homeless', used with respect to an individual or family, means an individual or family who—

''(i) is homeless;

''(ii) has been homeless continuously for at least 1 year or has been homeless on at least 4 separate occasions in the last 3 years; and

''(iii) in the case of a family, has an adult head of household with a disabling condition.

''(B) DISABLING CONDITION.—As used in this paragraph, the term 'disabling condition' means a condition that is a diagnosable substance use disorder, serious mental illness, developmental disability (as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15002)), or chronic physical illness or disability, including the co-occurrence of 2 or more of those conditions.

''(2) COLLABORATIVE APPLICANT.—

''(A) IN GENERAL.—The term 'collaborative applicant' means an entity that—

''(i) is a representative community homeless assistance planning body established or designed in accordance with section 402;

''(ii) serves as the applicant for project sponsors who jointly submit a single application for a grant under subtitle C in accordance with a collaborative process; and

''(iii) if the entity is a legal entity and is awarded such grant, receives such grant directly from the Secretary.

''(B) STATE AND LOCAL GOVERNMENTS.—Notwithstanding the requirements of subparagraph (A), the term 'collaborative applicant' includes a State or local government, or a consortium of State or local governments, engaged in activities to end homelessness.

''(3) COLLABORATIVE APPLICATION.—The term 'collaborative application' means an application for a grant under subtitle C that—

''(A) satisfies section 422 (including containing the information described in subsections (a) and (c) of section 426); and

''(B) is submitted to the Secretary by a collaborative applicant.

''(4) CONSOLIDATED PLAN.—The term 'Consolidated Plan' means a comprehensive housing affordability strategy and community development plan required in part 91 of title 24, Code of Federal Regulations.

''(5) ELIGIBLE ENTITY.—The term 'eligible entity' means, with respect to a subtitle, a public entity, a private entity, or an entity that is a combination of public and private entities, that is eligible to receive directly grant amounts under that subtitle.

''(6) GEOGRAPHIC AREA.—The term 'geographic area' means a State, metropolitan city, urban county, town, village, or other nonentitlement area, or a combination or consortia of such, in the United States, as described in section 106 of the Housing and Community Development Act of 1974 (42 U.S.C. 5306).

''(7) HOMELESS INDIVIDUAL WITH A DISABILITY.—

''(A) IN GENERAL.—The term 'homeless individual with a disability' means an individual who is homeless, as defined in section 103, and has a disability that—

''(i)(I) is expected to be long-continuing or of indefinite duration;

''(II) substantially impedes the individual's ability to live independently;

''(III) could be improved by the provision of more suitable housing conditions; and

''(IV) is a physical, mental, or emotional impairment, including an impairment caused by alcohol or drug abuse;

''(ii) is a developmental disability, as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15002); or

''(iii) is the disease of acquired immunodeficiency syndrome or any condition arising from the etiologic agency for acquired immunodeficiency syndrome.

''(B) RULE.—Nothing in clause (iii) of subparagraph (A) shall be construed to limit eligibility under clause (i) or (ii) of subparagraph (A).

''(8) LEGAL ENTITY.—The term 'legal entity' means—

''(A) an entity described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of that Code;

''(B) an instrumentality of State or local government; or

''(C) a consortium of instrumentalities of State or local governments that has constituted itself as an entity.

''(9) METROPOLITAN CITY; URBAN COUNTY; NONENTITLEMENT AREA.—The terms 'metropolitan city', 'urban county', and 'nonentitlement area' have the meanings given such terms in section 102(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)).

''(10) NEW.—The term 'new', used with respect to housing, means housing for which no assistance has been provided under this title.

''(11) OPERATING COSTS.—The term 'operating costs' means expenses incurred by a project sponsor operating—

''(A) transitional housing or permanent housing under this title with respect to—

''(i) the administration, maintenance, repair, and security of such housing;

''(ii) utilities, fuel, furnishings, and equipment for such housing; or

''(iii) conducting an assessment under section 426(c)(2); and

''(B) supportive housing, for homeless individuals with disabilities or homeless families that include such an individual, under this title with respect to—

''(i) the matters described in clauses (i), (ii), and (iii) of subparagraph (A); and

''(ii) coordination of services as needed to ensure long-term housing stability.

''(12) OUTPATIENT HEALTH SERVICES.—The term 'outpatient health services' means outpatient health care services, mental health services, and outpatient substance abuse treatment services.

''(13) PERMANENT HOUSING.—The term 'permanent housing' means community-based housing without a designated length of stay, and includes permanent supportive housing for homeless individuals with disabilities and homeless families that include such an individual who is an adult.

''(14) PERMANENT HOUSING DEVELOPMENT ACTIVITIES.—The term 'permanent housing development activities' means activities—

''(A) to construct, lease, rehabilitate, or acquire structures to provide permanent housing;

''(B) involving tenant-based and project-based flexible rental assistance for permanent housing;

''(C) described in paragraphs (1) through (4) of section 423(a) as they relate to permanent housing; or

''(D) involving the capitalization of a dedicated project account from which payments are allocated for rental assistance and operating costs of permanent housing.

''(15) PRIVATE NONPROFIT ORGANIZATION.—The term 'private nonprofit organization' means an organization—

''(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

''(B) that has a voluntary board;

''(C) that has an accounting system, or has designated a fiscal agent in accordance with requirements established by the Secretary; and

''(D) that practices nondiscrimination in the provision of assistance.

''(16) PROJECT.—The term 'project', used with respect to activities carried out under subtitle C, means eligible activities described in section 423(a), undertaken pursuant to a specific endeavor, such as serving a particular population or providing a particular resource.

''(17) PROJECT-BASED.—The term 'project-based', used with respect to rental assistance, means assistance provided pursuant to a contract that—

''(A) is between—

''(i) a project sponsor; and

''(ii) an owner of a structure that exists as of the date the contract is entered into; and

''(B) provides that rental assistance payments shall be made to the owner and that the units in the structure shall be occupied by eligible persons for not less than the term of the contract.

''(18) PROJECT SPONSOR.—The term 'project sponsor', used with respect to proposed eligible activities, means the organization directly responsible for the proposed eligible activities.

''(19) RECIPIENT.—Except as used in subtitle B, the term 'recipient' means an eligible entity who—

''(A) submits an application for a grant under section 422 that is approved by the Secretary;

''(B) receives the grant directly from the Secretary to support approved projects described in the application; and

''(C)(i) serves as a project sponsor for the projects; or

''(ii) awards the funds to project sponsors to carry out the projects.

''(20) SECRETARY.—The term 'Secretary' means the Secretary of Housing and Urban Development.

''(21) SERIOUSLY MENTALLY ILL.—The term 'seriously mentally ill' means having a severe and persistent mental illness or emotional impairment that seriously limits a person's ability to live independently.

''(22) STATE.—Except as used in subtitle B, the term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

''(23) SUPPORTIVE HOUSING.—The term 'supportive housing' means housing that—

''(A) helps individuals experiencing homelessness and families experiencing homelessness to transition from homelessness to living in safe, decent, and affordable housing as independently as possible; and

''(B) provides supportive services and housing assistance on either a temporary or permanent basis, as determined by the identified abilities and needs of the program participants.

''(24) SUPPORTIVE SERVICES.—The term 'supportive services'—

''(A) through the end of the final determination year (as described in section 423(a)(6)(C)(iii)), means the services described in section 423(a)(6)(A), for both new projects and projects receiving renewal funding; and

''(B) after that final determination year, means the services described in section 423(a)(6)(B), as permitted under section 423(a)(6)(C), for both new projects and projects receiving renewal funding.

''(25) TENANT-BASED.—The term 'tenant-based', used with respect to rental assistance, means assistance that allows an eligible person to select a housing unit in which such person will live using rental assistance provided under subtitle C, except that if necessary to assure that the provision of supportive services to a person participating in a program is feasible, a recipient or project sponsor may require that the person live—

''(A) in a particular structure or unit for not more than the first year of the participation; and

''(B) within a particular geographic area for the full period of the participation, or the

period remaining after the period referred to in subparagraph (A).

''(26) TRANSITIONAL HOUSING.—The term 'transitional housing' means housing, the purpose of which is to facilitate the movement of individuals and families experiencing homelessness to permanent housing within 24 months or such longer period as the Secretary determines necessary.

"SEC. 402. COLLABORATIVE APPLICANTS.

''(a) ESTABLISHMENT AND DESIGNATION.—A collaborative applicant shall be established for a geographic area by the relevant parties in that geographic area, or designated for a geographic area by the Secretary in accordance with subsection (d), to lead a collaborative planning process to design and evaluate programs, policies, and practices to prevent and end homelessness.

''(b) MEMBERSHIP OF ESTABLISHED COLLABORATIVE APPLICANT.—A collaborative applicant established under subsection (a) shall be composed of persons from a particular geographic area who are—

''(1) persons who are experiencing or have experienced homelessness (with not fewer than 2 persons being individuals who are experiencing or have experienced homelessness);

''(2) persons who act as advocates for the diverse subpopulations of persons experiencing homelessness;

''(3) persons or representatives of organizations who provide assistance to the variety of individuals and families experiencing homelessness; and

''(4) relatives of individuals experiencing homelessness;

''(5) government agency officials, particularly those officials responsible for administering funding under programs targeted for persons experiencing homelessness, and other programs for which persons experiencing homelessness are eligible, including mainstream programs identified by the Government Accountability Office in the 2 reports described in section 102(a)(5)(B);

''(6) 1 or more local educational agency liaisons designated under section 722(g)(1)(J)(ii), or their designees;

''(7) members of the business community;

''(8) members of neighborhood advocacy organizations; and

''(9) members of philanthropic organizations that contribute to preventing and ending homelessness in the geographic area of the collaborative applicant.

''(c) ROTATION OF MEMBERSHIP OF ESTABLISHED OR DESIGNATED COLLABORATIVE APPLICANT.—The parties establishing or designating a collaborative applicant under subsection (a) shall ensure, to the extent practicable, that the collaborative applicant rotates its membership to ensure that representatives of all agencies, businesses, and organizations who are described in paragraphs (1) through (9) of subsection (b) and invested in developing and implementing strategies to prevent and end homelessness are able to participate as decisionmaking members of the collaborative applicant.

''(d) EXISTING PLANNING BODIES.—The Secretary may designate an entity to be a collaborative applicant if such entity—

''(1) prior to the date of enactment of the Community Partnership to End Homelessness Act of 2005, engaged in coordinated, comprehensive local homeless housing and services planning and applied for Federal funding to provide homeless assistance; and

''(2) ensures that its membership includes persons described in paragraphs (1) through (9) of subsection (b).

''(e) TAX EXEMPT ORGANIZATIONS.—An entity may be established or designated to serve as a collaborative applicant under this section without being a legal entity. If a collaborative applicant is a legal entity, the collaborative applicant may only receive funds directly from the Secretary under this title, and may only apply for funds to conduct the activities described in section 423(a)(7).

''(f) REMEDIAL ACTION.—If the Secretary finds that a collaborative applicant for a geographic area does not meet the requirements of this section, the Secretary may take remedial action to ensure fair distribution of grant amounts under subtitle C to eligible entities within that area. Such measures may include designating another body as a collaborative applicant, or permitting other eligible entities to apply directly for grants.

''(g) CONSTRUCTION.—Nothing in this section shall be construed to displace conflict of interest or government fair practices laws, or their equivalent, that govern applicants for grant amounts under subtitles B and C.

''(h) DUTIES.—A collaborative applicant shall—

''(1)(A) design a collaborative process, established jointly and complied with by its members, for evaluating, reviewing, prioritizing, awarding, and monitoring projects and applications submitted by project sponsors under subtitle C, and for evaluating the outcomes of projects for which funds are awarded under subtitle B, in such a manner as to ensure that the entities involved further the goal of preventing and ending homelessness, and optimizing self-sufficiency among individuals and families experiencing homelessness, in the geographic area involved;

''(B)(i)(I) review relevant policies and practices (in place and planned) of public and private entities in the geographic area served by the collaborative applicant to determine if the policies and practices further or impede the goal described in subparagraph (A);

''(II) in conducting the review, give priority to the review of—

''(aa) the discharge planning and service termination policies and practices of publicly funded facilities or institutions (such as health care or treatment facilities or institutions, foster care or youth facilities, or juvenile or adult correctional institutions), and entities carrying out publicly funded programs and systems of care (such as health care or treatment programs, the programs of block grants to States for temporary assistance for needy families established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), child welfare or youth programs, or juvenile or adult correctional programs), to ensure that such a discharge or termination does not result in immediate homelessness for the persons involved;

''(bb) the access and utilization policies and practices of the entities carrying out mainstream programs identified by the Government Accountability Office in the 2 reports described in section 102(a)(5)(B), to ensure that persons experiencing homelessness are able to access and utilize the programs;

''(cc) local policies and practices relating to zoning and enforcement of local statutes, to ensure that the policies and practices allow reasonable inclusion and distribution in the geographic area of special needs populations and families with children and the facilities that serve the populations and families;

''(dd) policies and practices relating to the school selection and enrollment of homeless children and youths (as defined in section 725) to ensure that the homeless children and youths, and their parents, are able to exercise their educational rights under subtitle B of title VII; and

''(ee) local policies and practices relating to the placement of families with homeless children and youths (as so defined) in emergency or transitional shelters, to ensure that the children and youths are placed as close as possible to their school of origin in order to facilitate continuity of, and prevent disruption of, educational services; and

''(III) in conducting the review, determine the modifications and corrective actions that need to be taken, and by whom, to ensure that the relevant policies and practices do not stimulate, or prolong, homelessness in the geographic area;

''(ii) inform the appropriate entities of the determinations described in clause (i); and

''(iii) at least once every 3 years, prepare for inclusion in any application reviewed by the collaborative applicant, and submitted to the Secretary under section 422, the determinations described in clause (i), in the form of an exhibit entitled 'Assessment of Relevant Policies and Practices, and Needed Corrective Actions to End and Prevent Homelessness'; and

''(C) if the collaborative applicant designs and carries out the projects, design and carry out the projects in such a manner as to further the goal described in subparagraph (A);

''(2)(A) require, consistent with the Government Performance and Results Act of 1993 and amendments made by that Act, that recipients and project sponsors who are funded by grants received under subtitle C implement and maintain an outcome-based evaluation of their projects that measures effective and timely delivery of housing or services and whether provision of such housing or services results in preventing or ending homelessness for the persons that such recipients and project sponsors serve; and

''(B) request that States and local governments who distribute funds under subtitle B submit information and comments on the administration of activities under subtitle B, to enable the collaborative applicant to plan and design a full continuum of care for persons experiencing homelessness;

''(3) require, consistent with the Government Performance and Results Act of 1993 and amendments made by that Act, outcome-based evaluation of the homeless assistance planning process of the collaborative applicant to measure the performance of the collaborative applicant in preventing or ending the homelessness of persons in the geographic area of the collaborative applicant;

''(4) participate in the Consolidated Plan for the geographic area served by the collaborative applicant; and

''(5)(A) require each project sponsor who is funded by a grant received under subtitle C to establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursal of, and accounting for, Federal funds awarded to the project sponsor under subtitle C in order to ensure that all financial transactions carried out under subtitle C are conducted, and records maintained, in accordance with generally accepted accounting principles; and

''(B) arrange for an annual survey, audit, or evaluation of the financial records of each project carried out by a project sponsor funded by a grant received under subtitle C.

''(i) CONFLICT OF INTEREST.—No member of a collaborative applicant may participate in decisions of the collaborative applicant concerning the award of a grant, or provision of other financial benefits, to such member or the organization that such member represents.

''(j) HOMELESS MANAGEMENT INFORMATION SYSTEM.—

''(1) IN GENERAL.—In accordance with standards established by the Secretary, each collaborative applicant shall ensure consistent participation by project sponsors in a

community-wide homeless management information system. The collaborative applicant shall ensure the participation for purposes of collecting unduplicated counts of individuals and families experiencing homelessness, analyzing patterns of use of assistance provided under subtitles B and C for the geographic area involved, implementing an effective information and referral system, and providing information for the needs analyses and funding priorities of collaborative applicants.

''(2) FUNDS.—A collaborative applicant may apply for funds under this title to establish, continue, carry out, or ensure consistent participation by project sponsors in a homeless management information system, if the applicant is a legal entity.'';

(4) by inserting after section 403 (as redesignated in paragraph (2)) the following:

''SEC. 404. TECHNICAL ASSISTANCE.

''(a) TECHNICAL ASSISTANCE FOR PROJECT SPONSORS.—The Secretary shall make effective technical assistance available to private nonprofit organizations and other nongovernmental entities, States, metropolitan cities, urban counties, and counties that are not urban counties that are potential project sponsors, in order to implement effective planning processes for preventing and ending homelessness, to optimize self-sufficiency among individuals experiencing homelessness and to improve their capacity to become project sponsors.

''(b) TECHNICAL ASSISTANCE FOR COLLABORATIVE APPLICANTS.—The Secretary shall make effective technical assistance available to collaborative applicants to improve their ability to carry out the provisions of this title, and to design and execute outcome-effective strategies for preventing and ending homelessness in their geographic areas consistent with the provisions of this title.

''(c) RESERVATION.—The Secretary may reserve not more than 1 percent of the funds made available for any fiscal year for carrying out subtitles B and C, to make available technical assistance under subsections (a) and (b).

''SEC. 405. PERFORMANCE REPORTS AND MONITORING.

''(a) IN GENERAL.—A collaborative applicant shall submit to the Secretary an annual performance report regarding the activities carried out with grant amounts received under subtitles B and C in the geographic area served by the collaborative applicant, at such time and in such manner as the Secretary determines to be reasonable.

''(b) CONTENT.—The performance report described in subsection (a) shall—

''(1) describe the number of persons provided homelessness prevention assistance (including the number of such persons who were discharged or whose services were terminated as described in section 422(c)(1)(B)(ii)(I)(bb)), and the number of individuals and families experiencing homelessness who were provided shelter, housing, or supportive services, with the grant amounts awarded in the fiscal year prior to the fiscal year in which the report was submitted, including measurements of the number of persons experiencing homelessness who—

''(A) entered permanent housing, and the length of time such persons resided in that housing, if known;

''(B) entered transitional housing, and the length of time such persons resided in that housing, if known;

''(C) obtained or retained jobs;

''(D) increased their income, including increasing income through the receipt of government benefits;

''(E) received mental health or substance abuse treatment in an institutional setting and now receive that assistance in a less restrictive, community-based setting;

''(F) received additional education, vocational or job training, or employment assistance services;

''(G) received additional physical, mental, or emotional health care;

''(H) were children under the age of 18 during the year at issue, including the number of—

''(i) children who were not younger than 2 and not older than 4, or were infants or toddlers with disabilities (as defined in section 632 of the Individuals with Disabilities Education Act (20 U.S.C. 1432));

''(ii) children described in clause (i) who were enrolled in preschool or were receiving services under part C of such Act (20 U.S.C. 1431 et seq.);

''(iii) children who were not younger than 5 and not older than 17;

''(iv) children described in clause (iii) who are enrolled in 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)); and

''(v) children under the age of 18 who received child care, health care, mental health care, or supplemental educational services; and

''(I) were reunited with their families;

''(2) estimate the number of persons experiencing homelessness, including children under the age of 18, in the geographic area served by the collaborative applicant who are eligible for, but did not receive, services, housing, or other assistance through the programs funded under subtitles B and C in the prior fiscal year;

''(3) indicate the accomplishments achieved within the geographic area that involved the use of the grant amounts awarded in the prior fiscal year, regarding efforts to coordinate services and programs within the geographic area;

''(4) indicate the accomplishments achieved within the geographic area to—

''(A) increase access by persons experiencing homelessness to programs that are not targeted for persons experiencing homelessness (but for which persons experiencing homelessness are eligible), including mainstream programs identified by the Government Accountability Office in the 2 reports described in section 102(a)(5)(B); and

''(B) prevent the homelessness of persons discharged from publicly funded institutions or systems of care (such as health care facilities, child welfare or other youth facilities or systems of care, institutions or systems of care relating to the program of block grants to States for temporary assistance for needy families established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), and juvenile or adult correctional programs and institutions);

''(5) describe how the collaborative applicant and other involved public and private entities within the geographic area will incorporate their experiences in the prior fiscal year into the programs and process that the collaborative applicant and entities will implement during the next fiscal year, including describing specific strategies to improve their performance outcomes;

''(6) assess the consistency and coordination between the programs funded under subtitles B and C in the prior fiscal year and the Consolidated Plan;

''(7) include updates to the exhibits described in section 402(h)(1)(B)(iii) that were included in applications—

''(A) submitted under section 422 by collaborative applicants; and

''(B) approved by the Secretary;

''(8) for each project sponsor funded by the collaborative applicant through a grant under subtitle C—

''(A) include a performance evaluation (which may include information from the reports described in subsection (a) and section 422(c)(1)(B)(vii)) of each project carried out by the project sponsor, based on the outcome-based evaluation measures described in section 402(h)(2)(A), the measurements described in section 423(a)(7), and the evaluation plan for the project described in section 426(b)(8) and resulting from the monitoring described in sections 402(h)(1)(A) and 426(c)(3); and

''(B) include a report, resulting from a survey, audit or evaluation conducted under section 402(h)(5)(B), detailing whether the project sponsor has carried out the recordkeeping and reporting requirements of section 402(h)(5); and

''(9) provide such other information as the Secretary finds relevant to assessing performance, including performance on success measures that are risk-adjusted to factors related to the circumstances of the population served.

''(c) WAIVER.—The Secretary may grant a waiver to any collaborative applicant that is unable to provide information required by subsection (b). Such collaborative applicant shall submit a plan to provide such information within a reasonable period of time.

''(d) MONITORING BY THE SECRETARY.—

''(1) COLLABORATIVE APPLICANTS.—Each year, the Secretary shall—

''(A) ensure that each collaborative applicant has complied with the requirements of subsection (b)(8) and section 402(h)(5);

''(B) require each collaborative applicant receiving funds under subtitle C to establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursal of, and accounting for, Federal funds awarded to the collaborative applicant under subtitle C in order to ensure that all financial transactions carried out under subtitle C are conducted, and records maintained, in accordance with generally accepted accounting principles; and

''(C) for a selected sample of collaborative applicants receiving funds under subtitle C—

''(i) ensure that each selected collaborative applicant has satisfactorily carried out the recordkeeping and reporting requirements of subsections (a) and (b), section 426(c)(3), and, if applicable, section 426(c)(6); and

''(ii) survey, audit, or evaluate the financial records of each selected collaborative applicant receiving funds under subtitle C to carry out section 423(a)(7)(A), using Federal auditors.

''(2) PROJECT SPONSORS.—Each year, the Secretary shall select a sample of project sponsors and shall conduct a performance evaluation of each project of each selected project sponsor funded under subtitle C, using the outcome-based evaluation measures developed by the appropriate collaborative applicant in accordance with section 402(h)(2)(A) and including the measurements described in section 423(a)(7).

''(e) ACTION BY SECRETARY.—Based on the information available to the Secretary, including information obtained pursuant to subsections (b) and (d), the Secretary may adjust, reduce, or withdraw amounts made available (or that would otherwise be made available) to collaborative applicants, or take other action as appropriate (including designating another body as a collaborative applicant, or permitting other collaborative entities to apply directly for grants under subtitle C), except that amounts already properly expended on eligible activities under this title may not be recaptured by the Secretary.''; and

(5) by inserting after section 406 (as redesignated in paragraph (2)) the following:

"SEC. 407. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out title II and this title $1,600,000,000 for fiscal year 2006 and such sums as may be necessary for fiscal years 2007, 2008, 2009, and 2010.''.

SEC. 5. EMERGENCY SHELTER GRANTS PROGRAM.

Subtitle B of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11371 et seq.) is amended—

(1) by striking section 412 (42 U.S.C. 11372) and inserting the following:

"SEC. 412. GRANT ASSISTANCE.

''The Secretary shall make grants to States and local governments (and to private nonprofit organizations providing assistance to persons experiencing homelessness, in the case of grants made with reallocated amounts) for the purpose of carrying out activities described in section 414.

"SEC. 412A. AMOUNT AND ALLOCATION OF ASSISTANCE.

''(a) IN GENERAL.—Of the amount made available to carry out this subtitle and subtitle C for a fiscal year, the Secretary shall allocate nationally not more than 15 percent of such amount for activities described in section 414.

''(b) ALLOCATION.—An entity that receives a grant under section 412, and serves an area that includes 1 or more geographic areas (or portions of such areas) served by collaborative applicants that submit applications under subtitle C, shall allocate the funds made available through the grant to carry out activities described in section 414, in consultation with the collaborative applicants.'';

(2) in section 413(b) (42 U.S.C. 11373(b)), by striking ''amounts appropriated'' and all that follows through ''for any'' and inserting ''amounts appropriated under section 407 and made available to carry out this subtitle for any'';

(3) by striking section 414 (42 U.S.C. 11374) and inserting the following:

"SEC. 414. ELIGIBLE ACTIVITIES.

''(a) IN GENERAL.—Assistance provided under section 412 may be used for the following activities:

''(1) The renovation, major rehabilitation, or conversion of buildings to be used as emergency shelters.

''(2) The provision of essential services, including services concerned with employment, health, or education, family support services for homeless youth, alcohol or drug abuse prevention or treatment, or mental health treatment, if such essential services have not been provided by the local government during any part of the immediately preceding 12-month period, or the use of assistance under this subtitle would complement the provision of those essential services.

''(3) Maintenance, operation insurance, provision of utilities, and provision of furnishings.

''(4) Efforts to prevent homelessness, such as the provision of financial assistance to families who have received eviction notices or notices of termination of utility services, if—

''(A) the inability of such a family to make the required payments is due to a sudden reduction in income;

''(B) the assistance is necessary to avoid the eviction or termination of services;

''(C) there is a reasonable prospect that the family will be able to resume the payments within a reasonable period of time; and

''(D) funds appropriated for the assistance will not supplant funding for homelessness prevention activities from other sources (other funds made available under this Act).

''(b) LIMITATION.—Not more than 30 percent of the aggregate amount of all assistance to a State or local government under this subtitle may be used for activities under subsection (a)(4).''; and

(4) by repealing sections 417 and 418 (42 U.S.C. 11377, 11378).

SEC. 6. HOMELESS ASSISTANCE PROGRAM.

Subtitle C of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11381 et seq.) is amended—

(1) by striking the subtitle heading and inserting the following:

"Subtitle C—Homeless Assistance Program";

(2) by striking sections 421 through 423 (42 U.S.C. 11381 et seq.) and inserting the following:

"SEC. 421. PURPOSES.

''The purposes of this subtitle are—

''(1) to promote the implementation of activities that can prevent vulnerable individuals and families from becoming homeless;

''(2) to promote the development of transitional and permanent housing, including low-demand housing;

''(3) to promote access to and effective utilization of mainstream programs identified by the Government Accountability Office in the 2 reports described in section 102(a)(5)(B) and programs funded with State or local resources; and

''(4) to optimize self-sufficiency among individuals experiencing homelessness.

"SEC. 422. COMMUNITY HOMELESS ASSISTANCE PROGRAM.

''(a) PROJECTS.—The Secretary shall award grants to collaborative applicants to carry out homeless assistance and prevention projects, either directly or by awarding funds to project sponsors to carry out the projects.

''(b) NOTIFICATION OF FUNDING AVAILABILITY.—The Secretary shall release a Notification of Funding Availability for grants awarded under this subtitle for a fiscal year not later than 3 months after the date of enactment of the appropriate Act making appropriations for the Department of Housing and Urban Development for the fiscal year.

''(c) APPLICATIONS.—

''(1) SUBMISSION TO THE SECRETARY.—To receive a grant under subsection (a), a collaborative applicant shall submit an application to the Secretary at such time and in such manner as the Secretary may require, and containing—

''(A) the information described in subsections (a) and (c) of section 426; and

''(B) other information that shall—

''(i) describe the establishment (or designation) and function of the collaborative applicant, including—

''(I) the nomination and selection process, including the names and affiliations of all members of the collaborative applicant; or

''(II) all meetings held by the collaborative applicant in preparing the application, including identification of those meetings that were public; and

''(III) all meetings between representatives of the collaborative applicant, and persons responsible for administering the Consolidated Plan;

''(ii) outline the range of housing and service programs available to persons experiencing homelessness or imminently at risk of experiencing homelessness and describe the unmet needs that remain in the geographic area for which the collaborative applicant seeks funding regarding—

''(I) prevention activities, including providing assistance in—

''(aa) making mortgage, rent, or utility payments; or

''(bb) accessing permanent housing and transitional housing for individuals (and families that include the individuals) who are being discharged from a publicly funded facility, program, or system of care, or whose services (from such a facility, program, or system of care) are being terminated;

''(II) outreach activities to assess the needs and conditions of persons experiencing homelessness, including significant subpopulations of such persons, including individuals with disabilities, veterans, victims of domestic violence, homeless children and youths (as defined in section 725), and chronically homeless individuals and families;

''(III) emergency shelters, including the supportive and referral services the shelters provide;

''(IV) transitional housing with appropriate supportive services to help persons experiencing homelessness who are not yet able or prepared to make the transition to permanent housing and independent living;

''(V) permanent housing to help meet the long-term needs of individuals and families experiencing homelessness; and

''(VI) needed supportive services, including services for children;

''(iii) prioritize the projects for which the collaborative applicant seeks funding according to the unmet needs in the fiscal year for which the applicant submits the application as described in clause (ii);

''(iv) identify funds from private and public sources, other than funds received under subtitles B and C, that the State, units of general local government, recipients, project sponsors, and others will use for homelessness prevention, outreach, emergency shelter, supportive services, transitional housing, and permanent housing, that will be integrated with the assistance provided under subtitles B and C;

''(v) identify funds provided by the State and units of general local government under programs targeted for persons experiencing homelessness, and other programs for which persons experiencing homelessness are eligible, including mainstream programs identified by the Government Accountability Office in the 2 reports described in section 102(a)(5)(B);

''(vi) explain—

''(I) how the collaborative applicant will meet the housing and service needs of individuals and families experiencing homelessness in the applicant's community; and

''(II) how the collaborative applicant will integrate the activities described in the application with the strategy of the State, units of general local government, and private entities in the geographic area over the next 5 years to prevent and end homelessness, including, as part of that strategy, a work plan for the applicable fiscal years;

''(vii) report on the outcome-based performance of the homeless programs within the geographic area served by the collaborative applicant that were funded under this title in the fiscal year prior to the fiscal year in which the application is submitted;

''(viii) include any relevant required agreements under subtitle C;

''(ix) contain a certification of consistency with the Consolidated Plan pursuant to section 403;

''(x) include an exhibit described in section 402(h)(1)(B)(iii) and prepared by the collaborative applicant in accordance with that section; and

''(xi) contain a certification that project sponsors for all projects for which the collaborative applicant seeks funding through the grant will establish policies and practices that are consistent with, and do not restrict the exercise of rights provided by, subtitle B of title VII, and other laws relating to the provision of educational and related services to individuals experiencing homelessness.

''(2) CONSIDERATION.—In outlining the programs and describing the needs referred to in paragraph (1)(A)(ii), the collaborative applicant shall take into account the findings and recommendations of the most recently completed annual assessments, conducted pursuant to section 2034 of title 38, United States Code, of the Department of Veterans Affairs medical centers or regional benefits offices whose service areas include the geographic area described in paragraph (1)(A)(ii).

''(3) ANNOUNCEMENT OF AWARDS.—The Secretary shall announce, within 4 months after the last date for the submission of applications described in this subsection for a fiscal year, the grants conditionally awarded under subsection (a) for that fiscal year.

''(4) OBLIGATION, DISTRIBUTION, AND UTILIZATION OF FUNDS.—

''(A) REQUIREMENTS FOR OBLIGATION.—

''(i) IN GENERAL.—Not later than 9 months after the announcement referred to in paragraph (3), each recipient of a grant announced under paragraph (3) shall, with respect to a project to be funded through such grant, meet, or cause the project sponsor to meet, all requirements for the obligation of funds for such project, including site control, matching funds, and environmental review requirements, except as provided in clause (ii).

''(ii) ACQUISITION, REHABILITATION, OR CONSTRUCTION.—Not later than 15 months after the announcement referred to in paragraph (3), each recipient or project sponsor seeking the obligation of funds for acquisition of housing, rehabilitation of housing, or construction of new housing for a grant announced under paragraph (3) shall meet all requirements for the obligation of those funds, including site control, matching funds, and environmental review requirements.

''(iii) EXTENSIONS.—At the discretion of the Secretary, and in compelling circumstances, the Secretary may extend the date by which a recipient shall meet or cause a project sponsor to meet the requirements described in clause (i) if the Secretary determines that compliance with the requirements was delayed due to factors beyond the reasonable control of the recipient or project sponsor. Such factors may include difficulties in obtaining site control for a proposed project, completing the process of obtaining secure financing for the project, or completing the technical submission requirements for the project.

''(B) OBLIGATION.—Not later than 45 days after a recipient meets or causes a project sponsor to meet the requirements described in subparagraph (A), the Secretary shall obligate the funds for the grant involved.

''(C) DISTRIBUTION.—A recipient that receives funds through such a grant—

''(i) shall distribute the funds to project sponsors (in advance of expenditures by the project sponsors); and

''(ii) shall distribute the appropriate portion of the funds to a project sponsor not later than 45 days after receiving a request for such distribution from the project sponsor.

''(D) EXPENDITURE OF FUNDS.—The Secretary may establish a date by which funds made available through a grant announced under paragraph (3) for a homeless assistance and prevention project shall be entirely expended by the recipient or project sponsors involved. The Secretary shall recapture the funds not expended by such date. The Secretary shall reallocate the funds for another homeless assistance and prevention project that meets the requirements of this subtitle to be carried out, if possible and appropriate, in the same geographic area as the area served through the original grant.

''(d) NOTIFICATION OF PRO RATA ESTIMATED NEED AMOUNTS.—

''(1) NOTICE.—The Secretary shall inform each collaborative applicant, at a time concurrent with the release of the Notice of Funding Availability for the grants, of the pro rata estimated need amount under this subtitle for the geographic area represented by the collaborative applicant.

''(2) AMOUNT.—

''(A) BASIS.—Such estimated need amount shall be based on a percentage of the total funds available, or estimated to be available, to carry out this subtitle for any fiscal year that is equal to the percentage of the total amount available for section 106 of the Housing and Community Development Act of 1974 (42 U.S.C. 5306) for the prior fiscal year that—

''(i) was allocated to all metropolitan cities and urban counties within the geographic area represented by the collaborative applicant; or

''(ii) would have been distributed to all counties within such geographic area that are not urban counties, if the 30 percent portion of the allocation to the State involved (as described in subsection (d)(1) of that section 106) for that year had been distributed among the counties that are not urban counties in the State in accordance with the formula specified in that subsection (with references in that subsection to nonentitlement areas considered to be references to those counties).

''(B) RULE.—In computing the estimated need amount, the Secretary shall adjust the estimated need amount determined pursuant to subparagraph (A) to ensure that—

''(i) 75 percent of the total funds available, or estimated to be available, to carry out this subtitle for any fiscal year are allocated to the metropolitan cities and urban counties that received a direct allocation of funds under section 413 for the prior fiscal year; and

''(ii) 25 percent of the total funds available, or estimated to be available, to carry out this subtitle for any fiscal year are allocated—

''(I) to the metropolitan cities and urban counties that did not receive a direct allocation of funds under section 413 for the prior fiscal year; and

''(II) to counties that are not urban counties.

''(C) COMBINATIONS OR CONSORTIA.—For a collaborative applicant that represents a combination or consortium of cities or counties, the estimated need amount shall be the sum of the estimated need amounts for the cities or counties represented by the collaborative applicant.

''(D) AUTHORITY OF SECRETARY.—The Secretary may increase the estimated need amount for a geographic area if necessary to provide 1 year of renewal funding for all expiring contracts entered into under this subtitle for the geographic area.

''(e) APPEALS.—

''(1) IN GENERAL.—Not later than 3 months after the date of enactment of the Community Partnership to End Homelessness Act of 2005, the Secretary shall establish a timely appeal procedure for grant amounts awarded or denied under this subtitle pursuant to an application for funding.

''(2) PROCESS.—The Secretary shall ensure that the procedure permits appeals submitted by collaborative applicants, entities carrying out homeless housing and services projects (including emergency shelters and homelessness prevention programs), homeless planning bodies not designated by the Secretary as collaborative applicants.

''(f) RENEWAL FUNDING FOR UNSUCCESSFUL APPLICANTS.—The Secretary may renew funding for a specific project previously funded under this subtitle that the Secretary determines is worthy, and was included as part of a total application that met the criteria of subsection (c), even if the application was not selected to receive grant assistance. The Secretary may renew the funding for a period of not more than 1 year, and under such conditions as the Secretary determines to be appropriate.

''SEC. 423. ELIGIBLE ACTIVITIES.

''(a) IN GENERAL.—The Secretary may award grants to qualified collaborative applicants under section 422 to carry out homeless assistance and prevention projects that consist of 1 or more of the following eligible activities:

''(1) Construction of new housing units to provide transitional or permanent housing.

''(2) Acquisition or rehabilitation of a structure to provide supportive services or to provide transitional or permanent housing, other than emergency shelter.

''(3) Leasing of property, or portions of property, not owned by the recipient or project sponsor involved, for use in providing transitional or permanent housing, or providing supportive services.

''(4) Provision of rental assistance to provide transitional or permanent housing to eligible persons. The rental assistance may include tenant-based or project-based rental assistance.

''(5) Payment of operating costs for housing units assisted under this subtitle.

''(6)(A) Through the end of the final determination year (as described in subparagraph (C)(iii)), the supportive services described in section 425(c), for both new projects and projects receiving renewal funding.

''(B) After that final determination year, for both new projects and projects receiving renewal funding, services providing job training, case management, outreach services, life skills training, housing counseling services, and other services determined by the Secretary (either at the Secretary's initiative or on the basis of adequate justification by an applicant) to be directly relevant to allowing persons experiencing homelessness to access and retain housing.

''(C)(i) Not later than 30 days after the end of the fiscal year in which the date of enactment of the Community Partnership to End Homelessness Act of 2005 occurs (referred to in this paragraph as the 'initial year'), the Government Accountability Office, after consultation with the congressional committees with jurisdiction over the services referred to in this pararaph, shall determine—

''(I) the amount of Federal funds (other than funds made available under this subtitle) that were made available to fund the supportive services described in section 425(c), other than the services described in subparagraph (B) (referred to in this paragraph as the 'outside supportive services amount') for that initial year; and

''(II) the amount of Federal funds made available under this subtitle to fund the supportive services described in section 425(c), other than the services described in subparagraph (B) (referred to in this paragraph as the 'subtitle B supportive services amount') for that initial year.

''(ii) Not later than 30 days after the end of the third full fiscal year after that date of enactment and of each subsequent fiscal year (referred to in this paragraph as the 'determination year') until the final determination year described in clause (iii), the Government Accountability Office, after consultation with the committees described in clause (i), shall—

''(I) determine the outside supportive services amount for that determination year;

''(II) calculate the increase in the outside supportive services amount, by subtracting

the outside supportive services amount for the initial year from the outside supportive services amount for that determination year;

''(III) make—

''(aa) a positive determination that the increase is greater than or equal to the subtitle B supportive services amount for the initial year; or

''(bb) a negative determination that that increase is less than that amount; and

''(IV) submit a report regarding that determination year, and containing the positive or negative determination, to the Secretary.

''(iii) On receipt of such a report regarding a determination year that contains a positive determination, the Secretary may publish a notice in the Federal Register, containing a proposed order that subparagraph (B) shall apply for subsequent fiscal years, and seeking public comment for a period of not less than 60 days. At the end of the comment period, the Secretary may issue a final order that subparagraph (B) shall apply for subsequent fiscal years. If the Secretary issues that final order, the determination year shall be considered to be the final determination year for purposes of this subparagraph.

''(iv) If the Secretary does not issue a final order under clause (iii), subparagraph (A) shall apply for the fiscal year following the determination year.

''(7)(A) In the case of a collaborative applicant that is a legal entity, payment of administrative costs related to planning, administering grand awards for, monitoring, and evaluating projects, and ensuring compliance with homeless management information system requirements described in section 402(j)(2), for which the collaborative applicant may use not more than 6 percent of the total funds made available through the grant. A project sponsor receiving funds from the collaborative applicant may use not more than an additional 5 percent of the total funds made available through the grant for such administrative costs.

''(B) For purposes of this paragraph, monitoring and evaluating shall include—

''(i) measuring the outcomes of the homeless assistance planning process of a collaborative applicant for preventing and ending homelessness;

''(ii) the effective and timely implementation of specific projects funded under this subtitle, relative to projected outcomes; and

''(iii) in the case of a housing project funded under this subtitle, compliance with appropriate standards of housing quality and habitability as determined by the Secretary.

''(8) Prevention activities (for which a collaborative applicant may use not more than 5 percent of the funds made available through the grant), including—

''(A) providing financial assistance to individuals or families who have received eviction notices, foreclosure notices, or notices of termination of utility services if, in the case of such an individual or family—

''(i) the inability of the individual or family to make the required payments is due to a sudden reduction in income;

''(ii) the assistance is necessary to avoid the eviction, foreclosure, or termination of services; and

''(iii) there is a reasonable prospect that the individual or family will be able to resume the payments within a reasonable period of time;

''(B) carrying out relocation activities (including providing security or utility deposits, rental assistance for a final month at a location, assistance with moving costs, or rental assistance for not more than 3 months) for moving into transitional or permanent housing, individuals, and families that include such individuals—

''(i) who lack housing;

''(ii) who are being discharged from a publicly funded acute care or long-term care facility, program, or system of care, or whose services (from such a facility, program, or system of care) are being terminated; and

''(iii) who have plans, developed collaboratively by the public entities involved and the individuals and families, for securing or maintaining housing after any funding provided under this subtitle is utilized; and

''(C) providing family support services that promote reunification of—

''(i) youth experiencing homelessness, with their families; and

''(ii) children or youth involved with the child welfare or juvenile justice systems, with their parents or guardians.

''(b) ELIGIBILITY FOR FUNDS FOR PREVENTION ACTIVITIES.—To be eligible to receive grant funds under section 422 to carry out the prevention activities described in subsection (a)(8), an applicant shall submit an application to the Secretary under section 422 that shall include a certification in which—

''(1) the relevant public entities in the geographic area involved certify compliance with subsection (c); and

''(2) the publicly funded institutions, facilities, and systems of care in the geographic area certify that the institutions, facilities, and systems of care will take, and fund directly, all reasonable measures to ensure that the institutions, facilities, and systems of care do not discharge individuals into homelessness.

''(c) SUPPLEMENT, NOT SUPPLANT.—Funds appropriated under section 407 and made available for prevention activities described in subsection (a)(8) shall be used to supplement and not supplant other Federal, State, and local public funds used for homelessness prevention.

''(d) USE RESTRICTIONS.—

''(1) ACQUISITION, REHABILITATION, AND NEW CONSTRUCTION.—A project that consists of activities described in paragraph (1) or (2) of subsection (a) shall be operated for the purpose specified in the application submitted for the project under section 422 for not less than 15 years.

''(2) OTHER ACTIVITIES.—A project that consists of activities described in any of paragraphs (3) through (8) of subsection (a) shall be operated for the purpose specified in the application submitted for the project under section 422 for the duration of the grant period involved.

''(3) CONVERSION.—If the recipient or project sponsor carrying out a project that provides transitional or permanent housing submits a request to the collaborative applicant involved to carry out instead a project for the direct benefit of low-income persons, and the collaborative applicant determines that the initial project is no longer needed to provide transitional or permanent housing, the collaborative applicant may recommend that the Secretary approve the project described in the request and authorize the recipient or project sponsor to carry out that project. If the collaborative applicant is the recipient or project sponsor, it shall submit such a request directly to the Secretary who shall determine if the conversion of the project is appropriate.

''(e) INCENTIVES TO CREATE NEW PERMANENT HOUSING STOCK.—

''(1) AWARDS.—

''(A) IN GENERAL.—In making grants to collaborative applicants under section 422, the Secretary shall make awards that provide the incentives described in paragraph (2) to promote the creation of new permanent housing units through the construction, or acquisition and rehabilitation, of permanent housing units, that are owned by a project sponsor or other independent entity who entered into a contract with a recipient or project sponsor, for—

''(i) chronically homeless individuals and chronically homeless families; and

''(ii) nondisabled homeless families.

''(B) LIMITATION.—In awarding funds under this subsection, the Secretary shall not award more than 10 percent of the funds for project sponsors or independent entities that propose to serve nondisabled homeless families.

''(2) ASSISTANCE.—

''(A) INDIVIDUALS WITH DISABILITIES.—A collaborative applicant that receives assistance under section 422 to implement a project that involves the construction, or acquisition and rehabilitation, of new permanent housing units described in paragraph (1), for individuals and families described in paragraph (1)(A)(i), shall also receive, as part of the grant, incentives consisting of—

''(i) funds sufficient to provide not more than 10 years of rental assistance, renewable in accordance with section 428;

''(ii) a bonus in an amount to be determined by the Secretary to carry out activities described in this section; and

''(iii) the technical assistance needed to ensure the financial viability and programmatic effectiveness of the project.

''(B) NONDISABLED HOMELESS FAMILIES.—A collaborative applicant that receives assistance under section 422 to implement a project that involves the construction, or acquisition and rehabilitation, of new permanent housing units described in paragraph (1), for nondisabled homeless families, shall also receive incentives consisting of—

''(i) a bonus in an amount to be determined by the Secretary to carry out activities described in this section; and

''(ii) the technical assistance needed to ensure the financial viability and programmatic effectiveness of the project.

''(3) ELIGIBLE APPLICANTS.—To be eligible to receive a grant under this subtitle to carry out activities to create new permanent housing stock for individuals and families described in paragraph (1), an applicant shall be a collaborative applicant as described in this subtitle, a private nonprofit or for profit organization, a public-private partnership, a public housing agency, or an instrumentality of a State or local government.

''(4) LOCATION.—To the extent practicable, a collaborative applicant that receives a grant under this subtitle to create new permanent housing stock shall ensure that the housing is located in a mixed-income environment.

''(5) DEFINITION.—In this subsection, the term 'nondisabled homeless family' means a homeless family that does not have an adult head of household with a disabling condition, as defined in section 401(1)(B).

''(f) REPAYMENT OF ASSISTANCE AND PREVENTION OF UNDUE BENEFITS.—

''(1) REPAYMENT.—If a recipient (or a project sponsor receiving funds from the recipient) receives assistance under section 422 to carry out a project that consists of activities described in paragraph (1) or (2) of subsection (a) and the project ceases to provide transitional or permanent housing—

''(A) earlier than 10 years after operation of the project begins, the Secretary shall require the recipient (or the project sponsor receiving funds from the recipient) to repay 100 percent of the assistance; or

''(B) not earlier than 10 years, but earlier than 15 years, after operation of the project begins, the Secretary shall require the recipient (or the project sponsor receiving funds from the recipient) to repay 20 percent of the assistance for each of the years in the 15-year period for which the project fails to provide that housing.

''(2) PREVENTION OF UNDUE BENEFITS.—Except as provided in paragraph (3), if any property is used for a project that receives assistance under subsection (a) and consists of activities described in paragraph (1) or (2) of subsection (a), and the sale or other disposition of the property occurs before the expiration of the 15-year period beginning on the date that operation of the project begins, the recipient (or the project sponsor receiving funds from the recipient) who received the assistance shall comply with such terms and conditions as the Secretary may prescribe to prevent the recipient (or a project sponsor receiving funds from the recipient) from unduly benefitting from such sale or disposition.

''(3) EXCEPTION.—A recipient (or a project sponsor receiving funds from the recipient) shall not be required to make the repayments, and comply with the terms and conditions, required under paragraph (1) or (2) if—

''(A) the sale or disposition of the property used for the project results in the use of the property for the direct benefit of very low-income persons; or

''(B) all of the proceeds of the sale or disposition are used to provide transitional or permanent housing meeting the requirements of this subtitle.'';

(3) in section 425 (42 U.S.C. 11385), by striking subsection (c) and inserting the following:

''(c) SERVICES.—Subject to section 423(a)(6), supportive services may include such services as—

''(1) establishing and operating a child care services program for families experiencing homelessness;

''(2) establishing and operating an employment assistance program, including providing job training;

''(3) providing outpatient health services, food, and case management;

''(4) providing assistance in obtaining permanent housing, employment counseling, and nutritional counseling;

''(5) providing outreach services, life skills training, and housing search and counseling services;

''(6) providing assistance in obtaining other Federal, State, and local assistance available for residents of supportive housing (including mental health benefits, employment counseling, and medical assistance, but not including major medical equipment);

''(7) providing legal services for purposes including requesting reconsiderations and appeals of veterans and public benefit claim denials and resolving outstanding warrants that interfere with an individual's ability to obtain and retain housing;

''(8) providing—

''(A) transportation services that facilitate an individual's ability to obtain and maintain employment;

''(B) income assistance;

''(C) health care; and

''(D) other supportive services necessary to obtain and maintain housing; and

''(9) providing other services determined by the Secretary (either at the Secretary's initiative or on the basis of adequate justification by an applicant) to be directly relevant to allowing persons experiencing homelessness to access and retain housing.'';

(4) in section 426 (42 U.S.C. 11386)—

(A) in subsection (a)—

(i) in paragraph (1), by striking ''Applications'' and all that follows through ''shall'' and inserting ''Applications for assistance under section 422 shall'';

(ii) in paragraph (2)—

(I) by striking subparagraph (B) and inserting the following:

''(B) a description of the size and characteristics of the population that would occupy housing units or receive supportive services assisted under this subtitle;''; and

(II) in subparagraph (E), by striking ''in the case of projects assisted under this title that do not receive assistance under such sections,''; and

(iii) in paragraph (3), in the last sentence, by striking ''recipient'' and inserting ''recipient (or a project sponsor receiving funds from the recipient)'';

(B) by striking subsections (b) and (c) and inserting:

''(b) SELECTION CRITERIA.—The Secretary shall award funds to collaborative applicants, and other eligible applicants that have been approved by the Secretary, by a national competition based on criteria established by the Secretary, which shall include—

''(1) the capacity of the applicant based on the past performance and management of the applicant;

''(2) if applicable, previous performance regarding homelessness prevention, housing, and services programs funded in any fiscal year prior to the date of submission of the application;

''(3) the plan by which—

''(A) access to appropriate permanent housing will be secured if the proposed project does not include permanent housing; and

''(B) access to outcome-effective supportive services will be secured for residents or consumers involved in the project who are willing to use the services;

''(4) if applicable, the extent to which an evaluation for the project will—

''(A) use periodically collected information and analysis to determine whether the project has resulted in enhanced stability and well-being of the residents or consumers served by the project;

''(B) include evaluations obtained directly from the individuals or families served by the project; and

''(C) be submitted by the project sponsors for the grant, to the collaborative applicant, for review and use in assessments, conducted by the collaborative applicant, consistent with the duty of the collaborative applicant to ensure effective outcomes that contribute to the goal of preventing and ending homelessness in the geographic area served by the collaborative applicant;

''(5) the need for the type of project proposed in the geographic area to be served and the extent to which prioritized programs meet unmet needs;

''(6) the extent to which the amount of assistance to be provided under this subtitle will be supplemented with resources from other public and private sources, including mainstream programs identified by the Government Accountability Office in the 2 reports described in section 102(a)(5)(B);

''(7) demonstrated coordination with the other Federal, State, local, private, and other entities serving individuals experiencing homelessness in the planning and operation of projects, to the extent practicable;

''(8) the extent to which the membership of the collaborative applicant involved represents the composition described in section 402(b) and the extent of membership involvement in the application process; and

''(9) such other factors as the Secretary determines to be appropriate to carry out this subtitle in an effective and efficient manner.

''(c) REQUIRED AGREEMENTS.—The Secretary may not provide assistance for a proposed project under this subtitle unless the collaborative applicant involved agrees—

''(1) to ensure the operation of the project in accordance with the provisions of this subtitle;

''(2) to conduct an ongoing assessment of access to mainstream programs referred to in subsection (b)(4);

''(3) to monitor and report to the Secretary the progress of the project;

''(4) to develop and implement procedures to ensure—

''(A) the confidentiality of records pertaining to any individual provided family violence prevention or treatment services through the project; and

''(B) that the address or location of any family violence shelter project assisted under this subtitle will not be made public, except with written authorization of the person responsible for the operation of such project;

''(5) to ensure, to the maximum extent practicable, that individuals and families experiencing homelessness are involved, through employment, provision of volunteer services, or otherwise, in constructing, rehabilitating, maintaining, and operating facilities for the project and in providing supportive services for the project;

''(6) if a collaborative applicant receives funds under subtitle C to carry out the payment of administrative costs described in section 423(a)(7), to establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursal of, and accounting for, such funds in order to ensure that all financial transactions carried out with such funds are conducted, and records maintained, in accordance with generally accepted accounting principles; and

''(7) to comply with such other terms and conditions as the Secretary may establish to carry out this subtitle in an effective and efficient manner.'';

(C) in subsection (d), in the first sentence, by striking ''recipient'' and inserting ''recipient or project sponsor'';

(D) by striking subsection (e);

(E) by redesignating subsections (f), (g), and (h), as subsections (e), (f), and (g), respectively;

(F) in subsection (f) (as redesignated in subparagraph (E)), in the first sentence, by striking ''recipient'' each place it appears and inserting ''recipient or project sponsor'';

(G) by striking subsection (i); and

(H) by redesignating subsection (j) as subsection (h);

(5)(A) by repealing section 429 (42 U.S.C. 11389); and

(B) by redesignating sections 427 and 428 (42 U.S.C. 11387, 11388) as sections 431 and 432, respectively; and

(6) by inserting after section 426 the following:

''SEC. 427. ALLOCATION AMOUNTS AND INCENTIVES FOR SPECIFIC ELIGIBLE ACTIVITIES.

''(a) PURPOSE.—The Secretary shall promote—

''(1) permanent housing development activities for—

''(A) homeless individuals with disabilities and homeless families that include such an individual; and

''(B) nondisabled homeless families; and

''(2) prevention activities described in section 423(a)(8).

''(b) DEFINITION.—In this section, the term 'nondisabled homeless family' means a homeless family that does not include a homeless individual with a disability.

''(c) ANNUAL PORTION OF APPROPRIATED AMOUNT AVAILABLE.—

''(1) DISABLED HOMELESS INDIVIDUALS AND FAMILIES.—

''(A) IN GENERAL.—From the amount made available to carry out this subtitle for a fiscal year, a portion equal to not less than 30 percent of the sums made available to carry

out subtitle B and this subtitle for that fiscal year shall be used for activities to develop new permanent housing, in order to help create affordable permanent housing for homeless individuals with disabilities and homeless families that include such an individual who is an adult.

''(B) CALCULATION.—In calculating the portion of the amount described in subparagraph (A) that is used for activities described in subparagraph (A), the Secretary shall not count funds made available to renew contracts for existing projects (in existence as of the date of the renewal) under section 428.

''(2) PREVENTION ACTIVITIES.—From the amount made available to carry out this subtitle for a fiscal year, a portion equal to not more than 5 percent of the sums described in paragraph (1) shall be used for prevention activities described in section 423(a)(8).

''(d) FUNDING FOR ACQUISITION, CONSTRUCTION, AND REHABILITATION OF PERMANENT OR TRANSITIONAL HOUSING.—Nothing in this Act shall be construed to establish a limit on the amount of funding that an applicant may request under this subtitle for acquisition, construction, or rehabilitation activities for the development of permanent housing or transitional housing.

''SEC. 428. RENEWAL FUNDING AND TERMS OF ASSISTANCE FOR PERMANENT HOUSING.

''(a) IN GENERAL.—Of the total amount available for use in connection with this subtitle, such sums as may be necessary shall be designated for the purpose of renewing expiring contracts for permanent housing, within the account referred to as the 'Homeless Assistance Grants Account' on the date of enactment of the Community Partnership to End Homelessness Act of 2005.

''(b) RENEWALS.—Such sums shall be available for the renewal of contracts for a 1-year term for rental assistance and housing operation costs associated with permanent housing projects funded under this subtitle, or under subtitle C or F (as in effect on the day before the date of enactment of the Community Partnership to End Homelessness Act of 2005). The Secretary shall determine whether to renew a contract for such a permanent housing project on the basis of demonstrated need for the project and the compliance of the entity carrying out the project with appropriate standards of housing quality and habitability as determined by the Secretary.

''(c) CONSTRUCTION.—Nothing in this section shall be construed as prohibiting the Secretary from renewing contracts under this subtitle in accordance with criteria set forth in a provision of this subtitle other than this section.

''SEC. 429. MATCHING FUNDING.

''(a) IN GENERAL.—A recipient of a grant (including a renewed grant) under this subtitle shall make available contributions, in cash, in an amount equal to not less than 25 percent of the Federal funds provided under the grant.

''(b) APPLICATION.—Subsection (a) shall not apply in the case of a grant for activities consisting of the payment of operating costs associated with permanent housing renewal grants described in section 428 that fund the operation of permanent housing—

''(1) for individuals or families whose incomes are 50 percent or less of the median income for an individual or family, respectively, in the geographic area involved; and

''(2) that receives no Federal or State funds from a source other than this subtitle.

''SEC. 430. APPEAL PROCEDURE.

''(a) IN GENERAL.—With respect to funding under this subtitle, if certification of consistency with the Consolidated Plan pursuant to section 403 is withheld from an applicant who has submitted an application for that certification, such applicant may appeal such decision to the Secretary.

''(b) PROCEDURE.—The Secretary shall establish a procedure to process the appeals described in subsection (a).

''(c) DETERMINATION.—Not later than 45 days after the date of receipt of an appeal described in subsection (a), the Secretary shall determine if certification was unreasonably withheld. If such certification was unreasonably withheld, the Secretary shall review such application and determine if such applicant shall receive funding under this subtitle.''.

SEC. 7. REPEALS AND CONFORMING AMENDMENTS.

(a) REPEALS.—Subtitles D, E, F, and G of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11391 et seq., 11401 et seq., 11403 et seq., and 11408 et seq.) are repealed.

(b) CONFORMING AMENDMENTS.—

(1) UNITED STATES INTERAGENCY COUNCIL ON HOMELESSNESS.—Section 2066(b)(3)(F) of title 38, United States Code and section 506(a) of the Public Health Service Act (42 U.S.C. 290aa–5(a)) are amended by striking ''Interagency Council on the Homeless'' and inserting ''United States Interagency Council on Homelessness''.

(2) CONSOLIDATED PLAN.—Section 403(1) of the McKinney-Vento Homeless Assistance Act, as redesignated in section 4(2), is amended—

(A) by striking ''current housing affordability strategy'' and inserting ''Consolidated Plan''; and

(B) by inserting before the comma the following: ''(referred to in that section as a 'comprehensive housing affordability strategy')''.

(3) PERSONS EXPERIENCING HOMELESSNESS.—Section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302) is amended by adding at the end the following:

''(d) PERSONS EXPERIENCING HOMELESSNESS.—References in this Act to homeless individuals (including homeless persons) or homeless groups (including the homeless) shall be considered to include, and to refer to, individuals experiencing homelessness or groups experiencing homelessness, respectively.''.

SEC. 8. EFFECTIVE DATE.

This Act shall take effect 6 months after the date of enactment of this Act.

Mr. BOND. Mr. President, I rise today to express my support for the Community Partnership to End Homeless Act of 2005. I am proud to be an original co-sponsor of this legislation because I believe that this bill will greatly assist the Nation's efforts on ending the long-standing tragedy of homelessness. I applaud the hard work of the chairman and ranking member of the Senate Banking Committee's Housing and Transportation Subcommittee, Senators ALLARD and REED for developing this important legislation.

As a former member of the Banking Committee, former chair of the VA-HUD and Independent Agencies Appropriations Subcommittee, and now the current chair of the Transportation, Treasury, the Judiciary, HUD, and Related Agencies (TTHUD) Appropriations Subcommittee, the issue of homelessness has been one of my main priorities. During my tenure on those subcommittees, I have learned a great deal about the causes of homelessness. The causes are varied ranging from the lack of affordable housing to mental or physical ailments to unforeseen economic problems.

The good news is that since the Congress first created the McKinney-Vento Homeless Assistance Act in 1987, there has been a great deal of research on homelessness and new approaches have been developed to solve homelessness. The most significant finding is the importance of permanent housing in ending homelessness. Due to this finding, I included a provision in the fiscal year 1999 VA–HUD and Independent Agencies Appropriations Act that required HUD to spend at least 30 percent of the homeless assistance grant funds on permanent housing.

Re-focusing HUD on permanent housing was something that senators on both sides of the aisle strongly and rightfully support. The 30 percent permanent housing set-aside requirement was established because HUD was not producing enough housing for homeless people. This was a problem because HUD is the only federal agency that provides permanent housing.

By 1998, just prior to the enactment of the 30 percent set-aside, only 13 percent of HUD homeless grant funds were being spent on permanent housing. Therefore, the 30 percent set-aside was created to re-balance HUD's homeless programs so that permanent housing was being provided. And, the set-aside has not hurt funding for supportive services since we have continually increased the HUD homeless account and the Administration has worked with other agencies, such as HHS and VA, to ensure that they are providing services to homeless people. In the Senate's fiscal year 2006 TTHUD bill, we have provided a $174 million increase over fiscal year 2005 for the HUD homeless account.

The focus on permanent housing was backed by sound research that demonstrated the cost-effectiveness of this approach. By focusing on permanent housing and especially those who were chronically homeless, HUD's programs became correctly focused on those most needy of this assistance, such as disabled homeless veterans. For those reasons, I am extremely pleased and supportive of the bill's provision that requires HUD to use at least 30 percent of funds for permanent housing activities. This provision is probably the most important piece of this legislation.

In addition to the permanent housing requirement, I strongly support the bill's provisions that require outcome-based performance evaluations, promote access to mainstream resources for supportive services, and consolidate HUD's competitive grant programs. I especially support the bill's efforts to encourage localities and grantees to participate and use the Homeless Management Information System (HMIS), which was initiated by Senator MIKULSKI and me in the fiscal year 2001 VA-HUD and Independent Appropriations Act. I am proud that the vast majority

of continuum-of-care grantees have implemented the HMIS. This system is absolutely critical for developing an unduplicated count of homeless people and an analysis of their patterns of use of federal assistance programs.

This is a strong bill supported by members on both sides of the aisle. I hope that the Senate and the Congress can pass important legislation because this bill will help eliminate the tragedy of homelessness. I urge my colleagues to support this bill.

By Mr. ENZI:

S. 1802. All to provide for appropriate waivers, suspensions, or exemptions from provisions of title I of the Employee Retirement Income Security Act of 1974 with respect to individual account plans affected by Hurricane Katrina or Rita; read the first time.

Mr. ENZI. Mr. President I rise to introduce the Pension Flexibility in Natural Disasters Act of 2005. The bill provides appropriate waivers, suspensions or exemptions from the provisions of title I of the Employee Retirement Income Security Act of 1974, as amended, with respect to individual account plans affected by Hurricane Katrina or Rita.

Hurricanes Katrina and Rita have brought terrible devastation in the gulf coast. Not only have so many homes in Louisiana, Mississippi, Alabama and Texas been destroyed but many businesses have been destroyed as well.

Any business that maintains a pension or retirement plan for their workers is subject to certain reporting, disclosure and fiduciary provisions of ERISA as well as being subject to the pertinent provisions of the Internal Revenue Code. ERISA sets up many requirements and deadlines that businesses simply cannot meet due to the devastation of their businesses and the destruction of all of their records.

This bill postpones reporting requirements for businesses that have been adversely affected by storms in these presidentially-declared disaster areas. It also will facilitate getting individuals access to their retirement savings in the form of hardship loans or distributions by allowing plan fiduciaries flexibility in making those distributions in view of these terrible disasters.

I hope my colleague will join me in supporting this important bill.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 1802

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 ''Pension Flexibility in Natural Disasters Act of 2005''.

SEC. 2. AUTHORITY TO THE SECRETARY OF LABOR, SECRETARY OF THE TREASURY, AND THE PENSION BENEFIT GUARANTY CORPORATION.

The Secretary of Labor, the Secretary of the Treasury, and the Executive Director of the Pension Benefit Guaranty Corporation shall exercise their authority under section 518 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1148) and section 7508A of the Internal Revenue Code of 1986 to postpone certain deadlines by reason of the Presidentially declared disaster areas in Louisiana, Mississippi, Alabama, Texas, and elsewhere, due to the effect of Hurricane Katrina or Rita. The Secretaries and the Executive Director of the Corporation shall issue guidance as soon as is practicable to plan sponsors and participants regarding extension of deadlines and rules applicable to these extraordinary circumstances. Nothing in this section shall be construed to relieve any plan sponsor from any requirement to pay benefits or make contributions under the plan of the sponsor.

SEC. 3. AUTHORITY TO PRESCRIBE GUIDANCE BY REASON OF THE PRESIDENTIALLY DECLARED DISASTER CAUSED BY HURRICANE KATRINA OR RITA.

(a) WAIVERS, SUSPENSIONS, OR EXEMPTIONS.—In the case of any pension plan which is an individual account plan, or any participant or beneficiary, plan sponsor, administrator, fiduciary, service provider, or other person with respect to such plan, affected by Hurricane Katrina or Rita, or any service provider or other person dealing with such plan, the Secretary of Labor may, notwithstanding any provision of title I of the Employee Retirement Income Security Act of 1974, prescribe, by notice or otherwise, a waiver, suspension, or exemption from any provision of such title which is under the regulatory authority of such Secretary, or from regulations issued under any such provision, that such Secretary determines appropriate to facilitate the distribution or loan of assets from such plan to participants and beneficiaries of such plan.

(b) EXEMPTION FROM LIABILITY FOR ACTS OR OMISSIONS COVERED BY WAIVER, SUSPENSION, OR EXEMPTION.—No person shall be liable for any violation of title I of the Employee Retirement Income Security Act of 1974, or of any regulations issued under such title, based upon any act or omission covered by a waiver, suspension, or exemption issued under subsection (a) if such act or omission is in compliance with the terms of the waiver, suspension, or exemption.

(c) PLAN TERMS SUBJECT TO WAIVER, SUSPENSION, OR EXEMPTION.—Notwithstanding any provision of the plan to the contrary and to the extent provided in any waiver, suspension, or exemption issued by the Secretary of Labor pursuant to subsection (a), no plan shall be treated as failing to be operated in accordance with its terms solely as a result of acts or omissions which are consistent with such waiver, suspension, or exemption.

(d) EXPIRATION OF AUTHORITY.—This section shall apply only with respect to waivers, suspensions, or exemptions issued by the Secretary of Labor during the 1-year period following the date of the enactment of this Act.

(e) DEFINITIONS.—Terms used in this section shall have the meanings provided such terms in section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002).

SEC. 4. AUTHORITY IN THE EVENT OF PRESIDENTIALLY DECLARED DISASTER OR TERRORISTIC OR MILITARY ACTIONS.

Section 518 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1148) is amended by inserting '', under any regulation issued thereunder, or under any plan provision'' after ''under this Act''.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 260—CALLING FOR FREE AND FAIR PARLIAMENTARY ELECTIONS IN THE REPUBLIC OF AZERBAIJAN

Mr. BIDEN (for himself, Mr. MCCAIN, Mr. HAGEL, Mr. LUGAR, and Mr. BROWNBACK) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 260

Whereas the Republic of Azerbaijan is scheduled to hold elections for its parliament, the Milli Majlis, in November 2005;

Whereas Azerbaijan has enjoyed a strong relationship with the United States since its independence from the former Soviet Union in 1991;

Whereas international observers monitoring Azerbaijan's October 2003 presidential election found that the pre-election, election day, and post-election environments fell short of international standards;

Whereas the International Election Observation Mission (IEOM) in Baku, Azerbaijan, deployed by the Organization for Security and Cooperation in Europe (OSCE) and the Council of Europe, found that there were numerous instances of violence by both members of the opposition and government forces;

Whereas the international election observers also found inequality and irregularities in campaign and election conditions, including intimidation against opposition supporters, restrictions on political rallies by opposition candidates, and voting fraud;

Whereas Azerbaijan freely accepted a series of commitments on democracy, human rights, and the rule of law when that country joined the OSCE as a participating State in 1992;

Whereas, following the 2003 presidential election, the Council of Europe adopted Resolution 1358 (2004) demanding that the Government of Azerbaijan immediately implement a series of steps that included the release of political prisoners, investigation of election fraud, and the creation of public service television to allow all political parties to better communicate with the people of Azerbaijan;

Whereas, since the 2003 presidential election, the Government of Azerbaijan has taken some positive steps by releasing some political prisoners and working to create public service television;

Whereas the United States supports the promotion of democracy and transparent, free, and fair elections consistent with the commitments of Azerbaijan as a participating State of the OSCE;

Whereas the United States is working with the Government of Azerbaijan, the political opposition, civil society, the OSCE, the Council of Europe, and other countries to strengthen the electoral process of Azerbaijan through diplomatic efforts and nonpartisan assistance programs, including support for international and domestic election observers, voter education and election information initiatives, training for candidates and political parties, and training for judges and lawyers on the adjudication of election disputes;

Whereas the Government of the United States has awarded a contract to conduct exit polling throughout Azerbaijan;

Whereas a genuinely free and fair election requires that citizens be guaranteed the right and opportunity to exercise their civil and political rights, free from intimidation, undue influence, threats of political retribution, or other forms of coercion by national or local authorities or others;

Whereas a genuinely free and fair election requires government and public authorities to ensure that candidates and political parties enjoy equal treatment before the law and that government resources are not employed to the advantage of individual candidates or political parties; and

Whereas the establishment of a transparent, free and fair election process for the 2005 parliamentary elections is an important step in Azerbaijan's progress toward full integration into the democratic community of nations: Now, therefore, be it

Resolved, That the Senate—

(1) calls on the Government of the Republic of Azerbaijan to hold orderly, peaceful, and free and fair parliamentary elections in November 2005 in order to ensure the long-term growth and stability of the country;

(2) calls upon the Government of Azerbaijan to guarantee the full participation of opposition parties in the upcoming elections, including members of opposition parties arrested in the months leading up to the November 2005 parliamentary elections;

(3) calls upon the opposition parties to fully and peacefully participate in the November 2005 parliamentary elections, and calls upon the Government of Azerbaijan to create the conditions for the participation on equal grounds of all viable candidates;

(4) believes it is critical that the November 2005 parliamentary elections be viewed by the people of Azerbaijan as free and fair, and that all sides refrain from violence during the campaign, on election day, and following the election;

(5) calls upon the Government of Azerbaijan to guarantee election monitors from the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe (OSCE), Azeri political parties, representatives of candidates, nongovernmental organizations, and other private institutions and organizations, both foreign and domestic, unimpeded access to all aspects of the election process;

(6) supports recommendations made by the Council of Europe on amendments to the Unified Election Code of Azerbaijan, specifically to ensure equitable representation of opposition and pro-government forces in all election commissions;

(7) urges the international community and domestic nongovernmental organizations to provide a sufficient number of election observers to ensure credible monitoring and reporting of the November 2005 parliamentary elections;

(8) recognizes the need for the establishment of an independent media and assurances by the Government of Azerbaijan that freedom of the press will be guaranteed; and

(9) calls upon the Government of Azerbaijan to guarantee freedom of speech and freedom of assembly.

SENATE RESOLUTION 261—EXPRESSING THE SENSE OF THE SENATE THAT THE CRISIS OF HURRICANE KATRINA SHOULD NOT BE USED TO WEAKEN, WAIVE, OR ROLL BACK FEDERAL PUBLIC HEALTH, ENVIRONMENTAL, AND ENVIRONMENTAL JUSTICE LAWS AND REGULATIONS, AND FOR OTHER PURPOSES

Mr. KERRY (for himself, Mr. DURBIN, Mr. REID, Mr. OBAMA, Mrs. BOXER, and Mr. JEFFORDS) submitted the following resolution; which was referred to the Committee on Environment and Public Works:

S. RES. 261

Whereas Hurricane Katrina made landfall in the Gulf Region on August 29, 2005, destroying property, causing massive floods, and resulting in more than $35,000,000,000 in insured property losses and over 1,000 deaths;

Whereas expeditiously rebuilding those areas affected by Hurricane Katrina and providing the victims of the storm with normalcy and relief must be the top priorities for Congress;

Whereas Secretary of Homeland Security Michael Chertoff recently commented, ''We are going to have to clean probably the greatest environmental mess we have ever seen in the country as a result of Hurricane Katrina'';

Whereas Hurricane Katrina demonstrates the connection between the health and safety of communities and the health of natural resources;

Whereas many of the hardest hit areas in New Orleans and the Gulf Coast from Hurricane Katrina were low-income and minority communities already facing decades of environmental injustices;

Whereas at least 9 major oil spills, and scores of smaller oil and hazardous substance spills, leaks, and other releases have occurred;

Whereas 60 underground storage tanks, hazardous waste storage facilities, and industrial facilities, and 5 Superfund sites in New Orleans were hit by Hurricane Katrina, yet monitoring reported to date has only been conducted at a handful of sites for a limited number of contaminants;

Whereas nearly 1,000 drinking-water systems were disabled or impaired because of power outages or structural damage, many people have been told to boil their water, and safe drinking water may not be available for the entire population for years to come;

Whereas the Environmental Protection Agency's initial water quality tests found that flood water in New Orleans contains 10 times more E. Coli bacteria than the Agency considers safe for human contact and lead concentrations that exceed drinking water standards, and the mix of contaminants poses a serious disease risk to those wading through the filthy water;

Whereas proper implementation and enforcement of Federal public health and environmental regulations are necessary to protect human health, especially among vulnerable populations, and are necessary in times of emergency to ensure that the response to a disaster does not exacerbate the initial impact;

Whereas major industrial facilities and toxic waste sites disproportionately impact low-income individuals, minorities, children, the elderly, and all underserved communities;

Whereas more than 1 in 4 Americans, including 10,000,000 children, live within 4 miles of a Superfund site, which poses serious public health issues when sites are not cleaned up adequately and in a timely manner;

Whereas the health of low-income and minority communities continues to suffer, largely because of the cumulative impact of all sources of pollution on public health in the acute impact area and the failure to consider cumulative impacts upon siting of new industrial facilities and cleanup of existing toxic communities;

Whereas the addition of poor environmental protection and enforcement to existing health vulnerabilities has only exacerbated the conditions in these communities, which often suffer from higher rates of illness and death in comparison with middle-class, suburban, and more affluent communities;

Whereas Federal public health and environmental laws provide many opportunities to address environmental risks and hazards in minority and low-income communities if applied and implemented;

Whereas Executive Order 12898 states that each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority and low-income populations;

Whereas in 2005, the Congress passed and President Bush signed into law (Public Law 109–54) language prohibiting the Environmental Protection Agency from using appropriated funds to work in contravention of Executive Order 12898 and further delay the implementation of this Order, which is critical to achieving environmental and health equity across all community lines;

Whereas environmental cleanup of affected areas must be done in an effective and timely manner to ensure the victims of Hurricane Katrina can return to their homes without enduring preventable environmental or health risks; and

Whereas weakening, waiving, and rolling back Federal public health and environmental protections would further threaten the heavily-damaged area of the Gulf Coast, negatively impact the public health of the already most-affected communities, and put public health and the environment at greater future risk at the expense of all communities: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the crisis of Hurricane Katrina and other such disasters should not be used to weaken, waive, or roll back Federal public health, environmental, and environmental justice laws and regulations;

(2) State, local, and regional authorities must retain their authority for compliance and permitting of industrial and other facilities, and their role in enforcing and implementing monitoring and cleanup regulations;

(3) testing, monitoring, cleanup, and recovery in the region hit by Hurricane Katrina and other areas of national emergency—

(A) should be completed in a manner designed to protect public health and the environment and ensure habitability of the region and mitigate against the effects of future storms; and

(B) should be carried out in compliance with Executive Order 12898; and

(4) the Federal rebuilding of communities and the economy of the Gulf Region should be a model of the integrated, diverse, and sustainable society that all people in the United States desire and deserve.

SENATE CONCURRENT RESOLUTION 55—EXPRESSING THE SENSE OF THE CONGRESS REGARDING THE CONDITIONS FOR THE UNITED STATES TO BECOME A SIGNATORY TO ANY MULTILATERAL AGREEMENT ON TRADE RESULTING FROM THE WORLD TRADE ORGANIZATION'S DOHA DEVELOPMENT AGENDA ROUND

Mr. CRAIG (for himself, Mr. ROCKEFELLER, Mr. HATCH, Mr. BAUCUS, Ms. SNOWE, Mr. BINGAMAN, Mr. CRAPO, Mrs. LINCOLN, Mr. DEWINE, Mr. REED, Mr. ALLEN, Mr. KOHL, Mr. SPECTER, Mr. LEVIN, Mr. VOINOVICH, Mr. BYRD, Mrs. DOLE, Ms. MIKULSKI, Mr. SHELBY, Ms.

COLLINS, Mr. SARBANES, Mr. GRAHAM, Mr. REID, Mr. COLEMAN, Ms. STABENOW, Mr. SANTORUM, and Mr. DURBIN) submitted the following concurrent resolution; which was referred to the Committee on Finance:

S. CON. RES. 55

Whereas members of the World Trade Organization (WTO) are currently engaged in a round of trade negotiations known as the Doha Development Agenda (Doha Round);

Whereas the Doha Round includes negotiations aimed at clarifying and improving disciplines under the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (Antidumping Agreement) and the Agreement on Subsidies and Countervailing Measures (Subsidies Agreement);

Whereas the WTO Ministerial Declaration adopted on November 14, 2001 (WTO Paper No. WT/MIN(01)/DEC/1) specifically provides that the Doha Round negotiations are to preserve the ''basic concepts, principles and effectiveness'' of the Antidumping Agreement and the Subsidies Agreement;

Whereas in section 2102(b)(14)(A) of the Bipartisan Trade Promotion Authority Act of 2002, the Congress mandated that the principal negotiating objective of the United States with respect to trade remedy laws was to ''preserve the ability of the United States to enforce rigorously its trade laws . . . and avoid agreements that lessen the effectiveness of domestic and international disciplines on unfair trade, especially dumping and subsidies'';

Whereas the countries that have been the most persistent and egregious violators of international fair trade rules are engaged in an aggressive effort to significantly weaken the disciplines provided in the Antidumping Agreement and the Subsidies Agreement and undermine the ability of the United States to effectively enforce its trade remedy laws;

Whereas chronic violators of fair trade disciplines have put forward proposals that would substantially weaken United States trade remedy laws and practices, including mandating that unfair trade orders terminate after a set number of years even if unfair trade and injury are likely to recur, mandating that trade remedy duties reflect less than the full margin of dumping or subsidization, mandating higher de minimis levels of unfair trade, making cumulation of the effects of imports from multiple countries more difficult in unfair trade investigations, outlawing the critical practice of ''zeroing'' in antidumping investigations, mandating the weighing of causes, and mandating other provisions that make it more difficult to prove injury;

Whereas United States trade remedy laws have already been significantly weakened by numerous unjust and activist WTO dispute settlement decisions which have created new obligations to which the United States never agreed;

Whereas trade remedy laws remain a critical resource for American manufacturers, agricultural producers, and aquacultural producers in responding to closed foreign markets, subsidized imports, and other forms of unfair trade, particularly in the context of the challenges currently faced by these vital sectors of the United States economy;

Whereas the United States had a current account trade deficit of approximately $668,000,000,000 in 2004, including a trade deficit of almost $162,000,000,000 with China alone, as well as a trade deficit of $40,000,000,000 in advanced technology;

Whereas United States manufacturers have lost over 3,000,000 jobs since June 2000, and United States manufacturing employment is currently at its lowest level since 1950;

Whereas many industries critical to United States national security are at severe risk from unfair foreign competition; and

Whereas the Congress strongly believes that the proposals put forward by countries seeking to undermine trade remedy disciplines in the Doha Round would result in serious harm to the United States economy, including significant job losses and trade disadvantages: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) the United States should not be a signatory to any agreement or protocol with respect to the Doha Development Round of the World Trade Organization negotiations, or any other bilateral or multilateral trade negotiations, that—

(A) adopts any proposal to lessen the effectiveness of domestic and international disciplines on unfair trade or safeguard provisions, including proposals—

(i) mandating that unfair trade orders terminate after a set number of years even if unfair trade and injury are likely to recur;

(ii) mandating that trade remedy duties reflect less than the full margin of dumping or subsidization;

(iii) mandating higher de minimis levels of unfair trade;

(iv) making cumulation of the effects of imports from multiple countries more difficult in unfair trade investigations;

(v) outlawing the critical practice of ''zeroing'' in antidumping investigations; or

(vi) mandating the weighing of causes or other provisions making it more difficult to prove injury in unfair trade cases; and

(B) would lessen in any manner the ability of the United States to enforce rigorously its trade laws, including the antidumping, countervailing duty, and safeguard laws;

(2) the United States trade laws and international rules appropriately serve the public interest by offsetting injurious unfair trade, and that further ''balancing modifications'' or other similar provisions are unnecessary and would add to the complexity and difficulty of achieving relief against injurious unfair trade practices; and

(3) the United States should ensure that any new agreement relating to international disciplines on unfair trade or safeguard provisions fully rectifies and corrects decisions by WTO dispute settlement panels or the Appellate Body that have unjustifiably and negatively impacted, or threaten to negatively impact, United States law or practice, including a law or practice with respect to foreign dumping or subsidization.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1882. Mr. CONRAD (for himself and Mr. DORGAN) submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table.

SA 1883. Mr. CONRAD (for himself, Mr. BAUCUS, Mr. SALAZAR, Mr. ENZI, Mr. THOMAS, and Mr. BURNS) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table.

SA 1884. Mr. THUNE submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1885. Mr. MARTINEZ submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1886. Mr. HARKIN (for himself, Mr. OBAMA, Mr. REID, Mr. KENNEDY, Mr. DURBIN, Mr. BAYH, Mr. DODD, Mr. SCHUMER, Mr. REED, Mr. BIDEN, Mr. STEVENS, and Mrs. MURRAY) proposed an amendment to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

SA 1887. Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1888. Mr. SALAZAR (for himself, Mr. REED, and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1889. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1890. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1891. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1892. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1893. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1894. Mr. STEVENS (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) proposed an amendment to the bill S. 1778, to extend medicare cost-sharing for qualifying individuals through September 2006, to extend the Temporary Assistance for Needy Families Program, transitional medical assistance under the Medicaid Program, and related programs through March 31, 2006, and for other purposes.

SA 1895. Mr. BINGAMAN (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table.

SA 1896. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1897. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table.

SA 1898. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1899. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30 2006, and for other purposes; which was ordered to lie on the table.

SA 1900. Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1901. Mr. LEAHY (for himself, Mr. BOND, Mr. TALENT, and Ms. LANDRIEU) proposed an amendment to the bill H.R. 2863, supra.

SA 1902. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table.

SA 1903. Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30 2006, and for other purposes; which was ordered to lie on the table.

SA 1904. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1905. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1906. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1907. Mr. DEWINE submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table.

SA 1908. Mr. DURBIN (for himself, Ms. MIKULSKI, Mr. CORZINE, Mr. SALAZAR, Mrs. MURRAY, Mr. LAUTENBERG, Mr. BIDEN, Mr. NELSON of Florida, Mr. BINGAMAN, Mr. CHAFEE, and Mr. KERRY) proposed an amendment to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

SA 1909. Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed by her to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1910. Mr. ALEXANDER submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1911. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1912. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table.

SA 1913. Mr. BAYH submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30 2006, and for other purposes; which was ordered to lie on the table.

SA 1914. Mr. NELSON, of Florida submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1915. Mr. NELSON, of Florida submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1916. Mr. NELSON, of Florida submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1917. Mr. NELSON, of Florida submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1918. Mr. NELSON, of Florida submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1919. Mr. NELSON, of Florida submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 1920. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill H.R. 2863, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1882. Mr. CONRAD (for himself and Mr. DORGAN) submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in title IX, insert the following:

SEC. . (a) ADDITIONAL AMOUNT FOR AIRCRAFT PROCUREMENT, AIR FORCE.—The amount appropriated by this title under the heading ''AIRCRAFT PROCUREMENT, AIR FORCE'' is hereby increased by $218,500,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount appropriated by this title under the heading ''AIRCRAFT PROCUREMENT, AIR FORCE'', as increased by subsection (a), $218,500,000 shall be available for purposes as follows:

(1) Procurement of Predator MQ–1 air vehicles, initial spares, and RSP kits.

(2) Procurement of Containerized Dual Control Station Launch and Recovery Elements.

(3) Procurement of a Fixed Ground Control Station.

(4) Procurement of other upgrades to Predator MQ–1 Ground Control Stations, spares, and signals intelligence packages.

(c) OFFSET.—(1) The amount appropriated by this title for the Iraq Freedom Fund is hereby reduced by $218,500,000.

(2) The reduction under paragraph (1) shall not be from amounts available for classified programs or from amounts available for the Joint IED Defeat Task Force.

(d) CONTINGENCY OPERATIONS.—The amount made available by subsection (a) is designated as making supplemental appropriations for contingency operations related to the global war on terrorism pursuant to section 402 of H. Con. Res. 95 (109th Congress).

SA 1883. Mr. CONRAD (for himself, Mr. BAUCUS, Mr. SALAZAR, Mr. ENZI, Mr. THOMAS, and Mr. BURNS) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title X, add the following:

SEC. 1073. POLICY OF THE UNITED STATES ON THE INTER-CONTINENTAL BALLISTIC MISSILE FORCE.

(a) FINDINGS.—Congress makes the following findings:

(1) Consistent with warhead levels agreed to in the Moscow Treaty, the United States is modifying the capacity of the Minuteman III intercontinental ballistic missile (ICBM) from its prior capability to carry up to 3 independent reentry vehicles (RVs) to carry as few as a single reentry vehicle, a process known as downloading.

(2) A series of Department of Defense studies of United States strategic forces, including the 2001 Nuclear Posture Review, has confirmed the continued need for 500 intercontinental ballistic missiles.

(3) In a potential nuclear crisis it is important that the nuclear weapons systems of the United States be configured so as to discourage other nations from making a first strike.

(4) The intercontinental ballistic missile force is currently being considered as part of the deliberations of the Department of Defense for the Quadrennial Defense Review.

(b) STATEMENT OF UNITED STATES POLICY.—It is the policy of the United States to continue to deploy a force of 500 intercontinental ballistic missiles, provided that unanticipated strategic developments may compel the United States to make changes to this force structure in the future.

(c) MOSCOW TREATY DEFINED.—In this section, the term ''Moscow Treaty'' means the Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions, done at Moscow on May 24, 2002.

SA 1884. Mr. THUNE submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title X, add the following:

SEC. 1044. REPORT ON USE OF SPACE RADAR FOR TOPOGRAPHICAL MAPPING FOR SCIENTIFIC AND CIVIL PURPOSES.

(a) IN GENERAL.—Not later than January 15, 2006, the Secretary of Defense shall submit to the congressional defense committees a report on the feasibility and advisability of utilizing the Space Radar for purposes of providing coastal zone and other topographical mapping information, and related information, to the scientific community and other elements of the private sector for scientific and civil purposes.

(b) REPORT ELEMENTS.—The report required by subsection (a) shall include the following:

(1) A description and evaluation of any uses of the Space Radar for scientific or civil purposes that are identified by the Secretary for purposes of the report.

(2) A description and evaluation of any additions or modifications to the Space Radar identified by the Secretary for purposes of the report that would increase the utility of the Space Radar to the scientific community or other elements of the private sector for

scientific or civil purposes, including the utilization of additional frequencies, the development or enhancement of ground systems, and the enhancement of operations.

(3) A description of the costs of any additions or modifications identified pursuant to paragraph (2).

(4) A description and evaluation of processes to be utilized to determine the means of modifying the Space Radar in order to meet the needs of the scientific community or other elements of the private sector with respect to the use of the Space Radar for scientific or civil purposes, and a proposal for meeting the costs of such modifications.

(5) A description and evaluation of the impacts, if any, on the primary missions of the Space Radar, and on the development of the Space Radar, of the use of the Space Radar for scientific or civil purposes.

(6) A description of the process for developing requirements for the Space Radar, including the involvement of the Civil Applications Committee.

SA 1885. Mr. MARTINEZ submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title III, add the following:

SEC. 330. WELFARE OF SPECIAL CATEGORY RESIDENTS AT NAVAL STATION GUANTANAMO BAY, CUBA.

(a) IN GENERAL.—The Secretary of the Navy may provide for the general welfare, including subsistence, housing, and health care, of any person at Naval Station Guantanamo Bay, Cuba, who is designated by the Secretary, not later than 90 days after the date of the enactment of this Act, as a so-called ''special category resident''.

(b) PROHIBITION ON CONSTRUCTION OF FACILITIES.—The authorization in subsection (a) shall not be construed as an authorization for the construction of new housing facilities or medical treatment facilities.

(c) CONSTRUCTION OF PRIOR USE OF FUNDS.—The provisions of chapter 13 of title 31, United States Code, are hereby deemed not to have applied to the obligation or expenditure of funds before the date of the enactment of this Act for the general welfare of persons described in subsection (a).

SA 1886. Mr HARKIN (for himself, Mr. OBAMA, Mr. REID, Mr. KENNEDY, Mr. DURBIN, Mr. BAYH, Mr. DODD, Mr. SCHUMER, Mr. REED, Mr. BIDEN, Mr. STEVENS, and Mrs. MURRAY) proposed an amendment to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; as follows:

On page , at the appropriate place at the end of Title 9, insert the following:

TITLE .

SECTION 101.

(a) From the money in the Treasury not otherwise obligated or appropriated, there are appropriated to the Centers for Disease Control and Prevention $3,913,000,000 for activities relating to the avian flu epidemic during the fiscal year ending September 30, 2006, which shall be available until expended.

(b) Of the amount appropriated under subsection (a)—

(1) $3,080,000,000 shall be for the stockpiling of antivirals and necessary medical supplies;

(2) $33,000,000 shall be for global surveillance relating to avian flu;

(3) $125,000,000 shall be to increase the national investment in domestic vaccine infrastructure including development and research;

(4) $600,000,000 shall be for additional grants to state and local public health agencies for emergency preparedness, to increase funding for emergency preparedness centers, and to expand hospital surge capacity; and

(5) $75,000,000 shall be for risk communication and outreach to providers, businesses, and to the American public.

(c) The amount appropriated under subsection (a)—

(1) is designated as an emergency requirement pursuant to section 402 of H.R. Con. Res. 95 (109th Congress); and

(2) shall remain available until expended.

(d) This title shall take effect on the date of enactment of this Act.

SA 1887. Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. (a) RENAMING OF DEATH GRATUITY PAYABLE FOR DEATHS OF MEMBERS OF THE ARMED FORCES.—Subchapter II of chapter 75 of title 10, United States Code, is amended as follows:

(1) In section 1475(a), by striking ''have a death gratuity paid'' and inserting ''have fallen hero compensation paid''.

(2) In section 1476(a)—

(A) in paragraph (1), by striking ''a death gratuity'' and inserting ''fallen hero compensation''; and

(B) in paragraph (2), by striking ''A death gratuity'' and inserting ''Fallen hero compensation''.

(3) In section 1477(a), by striking ''A death gratuity'' and inserting ''Fallen hero compensation''.

(4) In section 1478(a), by striking ''The death gratuity'' and inserting ''The amount of fallen hero compensation''.

(5) In section 1479(1), by striking ''the death gratuity'' and inserting ''fallen hero compensation''.

(6) In section 1489—

(A) in subsection (a), by striking ''a gratuity'' in the matter preceding paragraph (1) and inserting ''fallen hero compensation''; and

(B) in subsection (b)(2), by inserting ''or other assistance'' after ''lesser death gratuity''.

(b) CLERICAL AMENDMENTS.—

(1) Such subchapter is further amended by striking ''**Death Gratuity:**'' each place it appears in the heading of sections 1475 through 1480 and 1489 and inserting ''**Fallen Hero Compensation:**''.

(2) The table of sections at the beginning of such subchapter is amended by striking ''Death gratuity:'' in the items relating to sections 1474 through 1480 and 1489 and inserting ''Fallen hero compensation:''.

(c) GENERAL REFERENCES.—Any reference to a death gratuity payable under subchapter II of chapter 75 of title 10, United States Code, in any law, regulation, document, paper, or other record of the United States shall be deemed to be a reference to fallen hero compensation payable under such subchapter, as amended by this section.

SA 1888. Mr. SALAZAR (for himself, Mr. REED, and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. PROVISION OF DEPARTMENT OF DEFENSE SUPPORT FOR CERTAIN PARALYMPIC SPORTING EVENTS.

Section 2564 of title 10, United States Code, is amended—

(1) in subsection (c), by adding at the end the following new paragraphs:

''(4) A sporting event sanctioned by the United States Olympic Committee through the Paralympic Military Program.

''(5) A national or international Paralympic sporting event (other than one covered by paragraph (3) or (4)) which is—

''(A) held in the United States or any of its territories or commonwealths;

''(B) governed by the International Paralympic Committee; and

''(C) sanctioned by the United States Olympic Committee.''; and

(2) in subsection (d)—

(A) by inserting ''(1)'' before ''The Secretary''; and

(B) by adding at the end the following new paragraph:

''(2) Not more than $1,000,000 may be expended in any fiscal year to provide support for events specified under paragraph (5) of subsection (c).''.

SA 1889. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, after line 25, insert the following:

SEC. 8116. Of the amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY'', $2,000,000 may be made available for medical advanced technology for applied emergency hypothermia for advanced combat casualty life support.

SA 1890. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, after line 25, insert the following:

SEC. 8116. Of the amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY'', $2,000,000 may be made available for weapons and munitions advanced technology for the advanced lightweight silicon switch for the electromagnetic gun system.

SA 1891. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, after line 25, insert the following:

SEC. 8116. Of the amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY'', $3,000,000 may be made available for acoustic search sensors for power upgrades to Navy buoys.

SA 1892. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, after line 25, insert the following:

SEC. 8116. PROHIBITION ON TORTURE AND CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT.

(a) IN GENERAL.—None of the funds appropriated or otherwise made available by this Act shall be obligated or expended to subject any person in the custody or under the physical control of the United States to torture or cruel, inhuman, or degrading treatment or punishment.

(b) DEFINITIONS.—As used in this section—

(1) the term ''torture'' has the meaning given that term in section 2340(1) of title 18, United States Code; and

(2) the term ''cruel, inhuman, or degrading treatment or punishment'' means conduct that would constitute cruel, unusual, and inhumane treatment or punishment prohibited by the fifth amendment, eighth amendment, or fourteenth amendment to the Constitution of the United States if the conduct took place in the United States.

SA 1893. Ms. LANDRIEU submitted an amendment to be proposed by her to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____.(a) IMPLEMENTATION OF IMT-2000 3G COMMUNICATIONS CAPABILITIES.—

(1) ADDITIONAL AMOUNT FOR OPERATION AND MAINTENANCE, AIR FORCE.—The amount appropriated by title II under the heading ''OPERATION AND MAINTENANCE, AIR FORCE'' is hereby increased by $10,000,000.

(2) AVAILABILITY OF AMOUNT.—Of the amount appropriated or otherwise made available by title II under the heading ''OPERATION AND MAINTENANCE, AIR FORCE'', as increased by paragraph (1), $10,000,000 may be available to the United States Northern Command for the purposes of implementing IMT–2000 3G Standards Based Communications Information Extension capabilities for the Gulf States and key entities within the Northern Command Area of Responsibility (AOR).

(b) IMPLEMENTATION OF IMT–2000 3G COMMUNICATIONS CAPABILITIES.—

(1) ADDITIONAL AMOUNT FOR OTHER PROCUREMENT, AIR FORCE.—The amount appropriated by title III under the heading ''OTHER PROCUREMENT, AIR FORCE'' is hereby increased by $20,000,000.

(2) AVAILABILITY OF AMOUNT.—Of the amount appropriated or otherwise made available by title III under the heading ''OTHER PROCUREMENT, AIR FORCE'', as increased by paragraph (1), $20,000,000 may be available to the United States Northern Command for the purposes of implementing IMT–2000 3G Standards Based Communications Information Extension capabilities for the Gulf States and key entities within the Northern Command Area of Responsibility (AOR).

(3) CONSTRUCTION OF AMOUNT.—The amount available under paragraph (2) for the purpose set forth in that paragraph is in addition to any other amounts available in this Act for that purpose.

SA 1894. Mr. STEVENS (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) proposed an amendment to the bill S. 1778, to extend medicare cost-sharing for qualifying individuals through September 2006, to extend the Temporary Assistance for Needy Families Program, transitional medical assistance under the Medicaid Program, and related programs through March 31, 2006, and for other purposes; as follows:

At the end, add the following:

SEC. 4. RESTRICTION ON COVERED DRUGS UNDER THE MEDICAID AND MEDICARE PROGRAMS.

(a) EXCLUSION UNDER MEDICARE BEGINNING IN 2007.—Section 1860D–2(e)(2)(A) of the Social Security Act (42 U.S.C. 1395w–102(e)(2)(A)) is amended by inserting ''and, only with respect to 2006, other than subparagraph (K) (relating to agents when used to treat sexual or erectile dysfunction, unless such agents are used to treat a condition, other than sexual or erectile dysfunction, for which the agent has been approved by the Food and Drug Administration)'' after ''agents)''.

(b) RESTRICTION UNDER MEDICAID.—

(1) IN GENERAL.—Section 1927(d)(2) of the Social Security Act (42 U.S.C. 1396r–8(d)(2)) is amended by adding at the end the following new subparagraph:

''(K) Agents when used to treat sexual or erectile dysfunction, except that such exclusion or other restriction shall not apply in the case of such agents when used to treat a condition, other than sexual or erectile dysfunction, for which the agent has been approved by the Food and Drug Administration.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to drugs dispensed on or after the date that is 60 days after the date of enactment of this Act.

(c) CLARIFICATION OF NO EFFECT ON DETERMINATION OF BASE EXPENDITURES.—Section 1935(c)(3)(B)(ii)(II) of the Social Security Act (42 U.S.C. 1396v(c)(3)(B)(ii)(II)) is amended by inserting '', including drugs described in subparagraph (K) of section 1927(d)(2)'' after ''1860D–2(e)''.

SA 1895. Mr. BINGAMAN (for himself and Mr. DOMENICI) submitted an amendment to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. Of the amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, AIR FORCE'', up to $3,000,000 may be used for research and development on the reliability of field programmable gate arrays for space applications.

SA 1896. Mr. DAYTON submitted an amendment to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____.(a) ADDITIONAL AMOUNT FOR OPERATION AND MAINTENANCE, DEFENSE-WIDE.—The amount appropriated by title II under the heading ''OPERATION AND MAINTENANCE, DEFENSE-WIDE'' is hereby increased by $120,000,000.

(b) AVAILABILITY FOR CHILD AND FAMILY ASSISTANCE BENEFITS.—Of the amount appropriated by title II under the heading ''OPERATION AND MAINTENANCE, DEFENSE-WIDE'', as increased by subsection (a), $120,000,000 may be available as follows:

(1) $100,000,000 may be available for childcare services for families of members of the Armed Forces.

(2) $20,000,000 may be available for family assistance centers that primarily serve members of the Armed Forces and their families.

(c) OFFSET.—

(1) IN GENERAL.—Subject to paragraph (2), the amount appropriated or otherwise made available by this Act for the Missile Defense Agency is hereby reduced by $120,000,000.

(2) LIMITATION.—The reduction in paragraph (1) shall not be derived from amounts appropriated or otherwise made available by this Act for the Missile Defense Agency and available for missile defense programs and activities of the Army.

SA 1897. Mr. SANTORUM submitted an amendment to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title II, add the following:

SEC. 213. WARHEAD/GRENADE SCIENTIFIC BASED MANUFACTURING TECHNOLOGY.

(a) ADDITIONAL AMOUNT FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FOR THE ARMY.—The amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army is hereby increased by $1,000,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army, as increased by subsection (a), $1,000,000 shall be available for Weapons and Ammunition Technology (PE#602624A) for Warhead/Grenade Scientific Based Manufacturing Technology.

(c) OFFSET.—The amount authorized to be appropriated by section 301(5) for operation and maintenance, Defense-wide activities is hereby reduced by $1,000,000, with the amount of the reduction to be allocated to amounts for Information Technology Initiatives.

SA 1898. Mr. SANTORUM submitted an amendment to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes;

which was ordered to lie on the table; as follows:

On page 379, after line 22, add the following:

SEC. 3302. AUTHORIZATION FOR DISPOSAL OF TUNGSTEN ORES AND CONCENTRATES.

(a) DISPOSAL AUTHORIZED.—The President may dispose of up to 8,000,000 pounds of contained tungsten in the form of tungsten ores and concentrates from the National Defense Stockpile in fiscal year 2006.

(b) CERTAIN SALES AUTHORIZED.—The tungsten ores and concentrates disposed under subsection (a) may be sold to entities with ore conversion or tungsten carbide manufacturing or processing capabilities in the United States.

SA 1899. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. (a) FUNDING FOR PARTICIPATION OF VET CENTERS IN TRANSITION ASSISTANCE PROGRAMS.—Of the amounts appropriated or otherwise made available by this Act, up to $10,000,000 shall be used for the participation of Vet centers in the transition assistance programs of the Department of Defense for members of the Armed Forces.

(b) VET CENTERS DEFINED.—In this section, the term ''Vet centers'' means centers for the provision of readjustment counseling and related mental health services under section 1712A of title 38, United States Code.

SA 1900. Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, after line 25, insert the following:

SEC. 8116.(a) Notwithstanding any other provision of law, not later than 60 days after the date on which the initial obligation of funds made available in this Act for training Afghan security forces is made, the Secretary of Defense, in conjunction with the Secretary of State, shall submit to the appropriate congressional committees a report that includes the following:

(1) An assessment of whether the individuals who are providing training to Afghan security forces with assistance provided by the United States have proven records of experience in training law enforcement or security personnel.

(2) A description of the procedures of the Department of Defense and Department of State to ensure that an individual who receives such training—

(A) does not have a criminal background;

(B) is not connected to any criminal or terrorist organization, including the Taliban;

(C) is not connected to drug traffickers; and

(D) meets certain age and experience standards.

(3) A description of the procedures of the Department of Defense and Department of State that—

(A) clearly establish the standards an individual who will receive such training must meet;

(B) clearly establish the training courses that will permit the individual to meet such standards; and

(C) provide for certification of an individual who meets such standards.

(4) A description of the procedures of the Department of Defense and Department of State to ensure the coordination of such training efforts.

(5) The number of trained security personnel needed in Afghanistan, an explanation of how such number was determined, and a schedule for providing such personnel to Afghanistan.

(6) A description of the methods that will be used by the Government of Afghanistan to maintain and equip such personnel when the such training is completed.

(7) A description of how such training efforts will be coordinated with other training programs being conducted by the governments of other countries or international organizations in Afghanistan.

(b) Not less frequently than once each year the Secretary of Defense, in conjunction with the Secretary of State, shall submit a report to the appropriate congressional committees that describes the progress made to meet the goals and schedules set out in the report required by subsection (a).

(c) In this section the term ''appropriate congressional committees'' means the Committee on Appropriations, the Committee on Armed Services, and the Committee on Foreign Relations of the Senate and the Committee on Appropriations, the Committee on Armed Services, and the Committee on International Relations of the House of Representatives.

SA 1901. Mr. LEAHY (for himself, Mr. BOND, Mr. TALENT, and Ms. LANDRIEU) proposed an amendment to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; as follows:

On page 228, between lines 4 and 5, insert the following:

NATIONAL GUARD AND RESERVE EQUIPMENT

For an additional amount for ''NATIONAL GUARD AND RESERVE EQUIPMENT'', $1,300,000,000, to remain available until expended: *Provided*, That the amount available under this heading shall be available for homeland security and homeland security response equipment; *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

SA 1902. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the bill, insert:

REPORT

SEC. . Not later than 90 days after enactment of this Act, the Secretary of Defense shall submit a report to the Committee on Armed Services and the Committee on Appropriations with the following information—

(a) Whether records of civilian casualties in Afghanistan and Iraq are kept by United States Armed Forces, and if so, how and from what sources this information is collected, where it is kept, and who is responsible for maintaining such records.

(b) Whether such records contain (1) any information relating to the circumstances under which the casualties occurred and whether they were fatalities or injuries; (2) if any condolence payment, compensation or assistance was provided to the victim or to the victim's family; and (3) any other information relating to the casualties.

SA 1903. Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, after line 25, insert the following:

SEC. 8116. APPLICATIONS FOR IMPACT AND AID PAYMENT.

Notwithstanding paragraphs (2) and (3) of section 8005(d) of Elementary and Secondary Education Act of 1965 (20 U.S.C. 7705(d)(2) and (3), the Secretary of Education shall treat as timely filed, and shall process for payment, an application under section 8002 or section 8003 of such Act (20 U.S.C. 7702, 7703) for fiscal year 2005 from a local educational agency—

(1) that, for each of the fiscal year 2000 through 2004, submitted an application by the date specified by the Secretary of Education under section 8005(c) of such Act for the fiscal year;

(2) for which a reduction of more than $1,000,000 was made under section 8005(d)(2) of such Act by the Secretary of Education as a result of the agency's failure to file a timely application under section 8002 or 8003 of such Act for fiscal year 2005; and

(3) that submits an application for fiscal year 2005 during the period beginning on February 2, 2004, and ending on the date of enactment of this Act.

SA 1904. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 222, after line 12, insert the following:

SEC. 8114. None of the funds made available in this Act may be used to procure goods or services, through a contract or subcontract (at any level) under a contract, from a Communist Chinese military company: *Provided*, That for purposes of this section, the term ''Communist Chinese military company'' has the meaning given that term in section 1237(b)(4) of the Strom Thurmond National Defense Act for Fiscal Year 1999 (Public Law 105–261; 50 U.S.C. 1701 note).

SA 1905. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

(a) AUTHORITY TO CONTINUE ALLOWANCE.—Effective as of September 30, 2005, section

1026 of division A of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109–13), is amended by striking subsections (d) and (e).

(b) CODIFICATION OF REPORTING REQUIREMENT.—Section 411h of title 37, United States Code, is amended by adding at the end the following new subsection: '(e) If the amount of travel and transportation allowances provided in a fiscal year under clause (ii) of subsection (a)(2)(B) exceeds $20,000,000, the Secretary of Defense shall submit to Congress a report specifying the total amount of travel and transportation allowances provided under such clause in such fiscal year.'.

(c) CONFORMING AMENDMENT.—Subsection (a)(2)(B)(ii) of such section, as added by section 1026 of division A of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109–13), is amended by striking 'under section 1967(c)(1)(A) of title 38'.

(d) FUNDING.—Funding shall be provided out of existing funds.

SA 1906. Mr. FEINGOLD submitted an amendment to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. PILOT PROJECT FOR CIVILIAN LINGUIST RESERVE CORPS.

(a) IN GENERAL.—The Secretary of Defense, acting through the Chairman of the National Security Education Board, shall, during the 3-year period beginning on the date of enactment of this Act, carry out a pilot program to establish a civilian linguist reserve corps, comprised of United States citizens with advanced levels of proficiency in foreign languages, who would be available, upon request from the President, to perform translation and other services or duties with respect foreign languages for the Federal Government.

(b) IMPLEMENTATION.—In establishing the Civilian Linguist Reserve Corps, the Secretary, after reviewing the findings and recommendations contained in the report required under section 325 of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 116 Stat. 2393), shall—

(1) identify several foreign languages in which proficiency by United States citizens is critical for the national security interests of the United States and the relative importance of such proficiency in each such language;

(2) identify United States citizens with advanced levels of proficiency in each foreign language identified under paragraph (1) who would be available to perform the services and duties referred to in subsection (a);

(3) cooperate with other Federal agencies with national security responsibilities to implement a procedure for securing the performance of the services and duties referred to in subsection (a) by the citizens identified under paragraph (2); and

(4) invite individuals identified under paragraph (2) to participate in the civilian linguist reserve corps.

(c) CONTRACT AUTHORITY.—In establishing the civilian linguist reserve corps, the Secretary may enter into contracts with appropriate agencies or entities.

(d) FEASIBILITY STUDY.—During the course of the pilot program established under this section, the Secretary shall conduct a study of the best practices to be utilized in establishing the civilian linguist reserve corps, including practices regarding—

(1) administrative structure;

(2) languages that will be available;

(3) the number of language specialists needed for each language;

(4) the Federal agencies that may need language services;

(5) compensation and other operating costs;

(6) certification standards and procedures;

(7) security clearances;

(8) skill maintenance and training; and

(9) the use of private contractors to supply language specialists.

(e) REPORTS.—

(1) EVALUATION REPORTS.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and annually thereafter for the next 2 years, the Secretary shall submit to Congress an evaluation report on the pilot project conducted under this section.

(B) CONTENTS.—Each report under subparagraph (A) shall contain information on the operation of the pilot project, the success of the pilot project in carrying out the objectives of the establishment of a civilian linguist reserve corps, and recommendations for the continuation or expansion of the pilot project.

(2) FINAL REPORT.—Not later than 6 months after the completion of the pilot project, the Secretary shall submit to Congress a final report summarizing the lessons learned, best practices, and recommendations for full implementation of a civilian linguist reserve corps.

(f) FUNDING.—Of the amount appropriated under the heading ''Operation and Maintenance, Defense-Wide'' in title II, $3,100,000 shall be available to carry out the pilot program under this section.

SA 1907. Mr. DEWINE submitted an amendment to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 167, between lines 6 and 7, insert the following:

(c) ADDITIONAL DEATH GRATUITY.—In the case of an active duty member of the armed forces who died between October 7, 2001, and May 11, 2005, and was not eligible for an additional death gratuity under section 1478(e) of title 10, United States Code (as added by section 1013(b) of Public Law 109–13), the eligible survivors of such decedent shall receive, in addition to the death gratuity available to such survivors under section 1478(a) of such title, an additional death gratuity of $150,000 under the same conditions as provided under such section 1478(e).

SA 1908. Mr. DURBIN (for himself, Ms. MIKULSKI, Mr. CORZINE, Mr. SALAZAR, Mrs. MURRAY, Mr. LAUTENBERG, Mr. BIDEN, Mr. NELSON of Florida, Mr. BINGAMAN, Mr. CHAFEE and Mr. KERRY) proposed an amendment to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. NONREDUCTION IN PAY WHILE FEDERAL EMPLOYEE IS PERFORMING ACTIVE SERVICE IN THE UNIFORMED SERVICES OR NATIONAL GUARD.

(a) SHORT TITLE.—This section may be cited as the ''Reservists Pay Security Act of 2005''.

(b) IN GENERAL.—Subchapter IV of chapter 55 of title 5, United States Code, is amended by adding at the end the following:

"§ 5538. Nonreduction in pay while serving in the uniformed services or National Guard

''(a) An employee who is absent from a position of employment with the Federal Government in order to perform active duty in the uniformed services pursuant to a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10 shall be entitled, while serving on active duty, to receive, for each pay period described in subsection (b), an amount equal to the amount by which—

''(1) the amount of basic pay which would otherwise have been payable to such employee for such pay period if such employee's civilian employment with the Government had not been interrupted by that service, exceeds (if at all)

''(2) the amount of pay and allowances which (as determined under subsection (d))—

''(A) is payable to such employee for that service; and

''(B) is allocable to such pay period.

''(b)(1) Amounts under this section shall be payable with respect to each pay period (which would otherwise apply if the employee's civilian employment had not been interrupted)—

''(A) during which such employee is entitled to reemployment rights under chapter 43 of title 38 with respect to the position from which such employee is absent (as referred to in subsection (a)); and

''(B) for which such employee does not otherwise receive basic pay (including by taking any annual, military, or other paid leave) to which such employee is entitled by virtue of such employee's civilian employment with the Government.

''(2) For purposes of this section, the period during which an employee is entitled to reemployment rights under chapter 43 of title 38—

''(A) shall be determined disregarding the provisions of section 4312(d) of title 38; and

''(B) shall include any period of time specified in section 4312(e) of title 38 within which an employee may report or apply for employment or reemployment following completion of service on active duty to which called or ordered as described in subsection (a).

''(c) Any amount payable under this section to an employee shall be paid—

''(1) by such employee's employing agency;

''(2) from the appropriation or fund which would be used to pay the employee if such employee were in a pay status; and

''(3) to the extent practicable, at the same time and in the same manner as would basic pay if such employee's civilian employment had not been interrupted.

''(d) The Office of Personnel Management shall, in consultation with Secretary of Defense, prescribe any regulations necessary to carry out the preceding provisions of this section.

''(e)(1) The head of each agency referred to in section 2302(a)(2)(C)(ii) shall, in consultation with the Office, prescribe procedures to ensure that the rights under this section apply to the employees of such agency.

''(2) The Administrator of the Federal Aviation Administration shall, in consultation with the Office, prescribe procedures to ensure that the rights under this section apply to the employees of that agency.

''(f) For purposes of this section—

''(1) the terms 'employee', 'Federal Government', and 'uniformed services' have the same respective meanings as given them in section 4303 of title 38;

''(2) the term 'employing agency', as used with respect to an employee entitled to any payments under this section, means the agency or other entity of the Government (including an agency referred to in section 2302(a)(2)(C)(ii)) with respect to which such employee has reemployment rights under chapter 43 of title 38; and

''(3) the term 'basic pay' includes any amount payable under section 5304.''.

(c) CLERICAL AMENDMENT.—The table of sections for chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5537 the following:

''5538. Nonreduction in pay while serving in the uniformed services or National Guard.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to pay periods (as described in section 5538(b) of title 5, United States Code, as amended by this section) beginning on or after the date of enactment of this Act.

SA 1909. Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed by her to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. Of the amount appropriated by title II under the heading ''OPERATION AND MAINTENANCE, NAVY'', $1,500,000 shall be available for Civilian Manpower and Personnel for a Human Resources Benefit Call Center in Machias, Maine.

SA 1910. Mr. ALEXANDER submitted an amendment to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, after line 25, insert the following:

SEC. 8116. (a) Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the use of ground source heat pumps at Department of Defense facilities.

(b) The report required under subsection (a) shall include—

(1) an inventory of the number and type of Department of Defense facilities that use ground source heat pumps;

(2) an estimate of the number and type of Department of Defense facilities that will use ground source heat pumps during the following 5 years;

(3) an assessment of the applicability and cost-effectiveness of the use of ground source heat pumps at Department of Defense facilities in different geographic regions of the United States;

(4) a description of the relative applicability of ground source heat pumps for purposes of new construction at, and retrofitting of, Department of Defense facilities; and

(5) recommendations for facilitating and encouraging the increased use of ground source heat pumps at Department of Defense facilities.

SA 1911. Ms. SNOWE submitted an amendment to be proposed by her to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. Of the amount appropriated by this Act under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE'', $9,000,000 shall be available for the rapid mobilization of the New England Manufacturing Supply Chain Initiative to meet Department of Defense supply shortages and surge demands for parts and equipment.

SA 1912. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title I, add the following:

SEC. 114. TACTICAL WHEELED VEHICLES.

(a) ADDITIONAL AMOUNT FOR OTHER PROCUREMENT, ARMY.—

(1) IN GENERAL.—The amount authorized to be appropriated by section 101(5) for other procurement for the Army is hereby increased by $360,800,000.

(2) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 101(5) for other procurement for the Army, as increased by paragraph (1)—

(A) $247,100,000 may be available for the procurement of armored Tactical Wheeled Vehicles to reconstitute Army Prepositioned Stocks–5, including the procurement of armored Light Tactical Vehicles (LTVs), armored Medium Tactical Vehicles (MTVs), and armored Heavy Tactical Vehicles (HTVs) for purposes of equipping one heavy brigade, one infantry brigade, and two infantry battalions; and

(B) $113,700,000 may be available for the procurement of armored Tactical Wheeled Vehicles for the Joint Readiness Training Center at Fort Polk, Louisiana, including the procurement of armored Light Tactical Vehicles, armored Medium Tactical Vehicles, and armored Heavy Tactical Vehicles for purposes of equipping one infantry brigade combat team in order to permit such vehicles to be used for the training and preparation of troops, prior to deployment, on the use of such vehicles.

(b) BALLISTICS ENGINEERING PROGRAM.—

(1) ADDITIONAL AMOUNT FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, DEFENSE-WIDE.—

(A) IN GENERAL.—The amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation for Defense-Wide activities is hereby increased by $5,000,000.

(B) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation for Defense-Wide activities, as increased by subparagraph (A), $5,000,000 may be available for the implementation of the ballistics engineering program established under paragraph (2).

(2) BALLISTICS ENGINEERING PROGRAM.—

(A) ESTABLISHMENT.—The Secretary of Defense shall create a collaborative ballistics engineering program at two major research institutions.

(B) PURPOSE.—The purpose of the program established under subparagraph (A) shall be to advance knowledge and application of ballistics materials and procedures to improve the safety of land-based military vehicles, particularly from hidden improvised explosive devices, including through the training of engineers, scientists, and military personnel in ballistics materials and their use.

SA 1913. Mr. BAYH submitted an amendment to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. ENFORCEMENT AND LIABILITY FOR NONCOMPLIANCE WITH SERVICEMEMBERS CIVIL RELIEF ACT.

(a) ENFORCEMENT.—

(1) IN GENERAL.—The Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.) is amended by adding at the end the following new title:

''TITLE VIII—ENFORCEMENT

''SEC. 801. ADMINISTRATIVE ENFORCEMENT.

''(a) ENFORCEMENT BY FEDERAL TRADE COMMISSION.—(1) Except as provided in subsections (b), (c), and (d), compliance with the provisions of this Act shall be enforced by the Federal Trade Commission in accordance with the Federal Trade Commission Act with respect to entities and persons subject to the Federal Trade Commission Act.

''(2) For the purpose of the exercise by the Commission under this subsection of its functions and powers under the Federal Trade Commission Act, a violation of any requirement or prohibition imposed by this Act shall constitute an unfair or deceptive act or practice in commerce in violation of section 5(a) of the Federal Trade Commission Act, and shall be subject to enforcement by the Commission with respect to any entity or person subject to enforcement by the Commission pursuant to this subsection, irrespective of whether such person or entity is engaged in commerce or meets any other jurisdictional tests under the Federal Trade Commission Act.

''(3) The Commission shall have such procedural, investigative, and enforcement powers, including the power to issue procedural rules in enforcing compliance with the requirements imposed by this Act and to require the filing of reports, the production of documents, and the appearance of witnesses, as though the applicable terms and conditions of the Federal Trade Commission Act were part of this Act.

''(4) Any person or entity violating any provision of this Act shall be subject to the penalties, and entitled to the privileges and immunities, provided in the Federal Trade Commission Act as though the applicable terms and provisions of the Federal Trade Commission Act were part of this Act.

''(5)(A) The Commission may commence a civil action to recover a civil penalty in a district court of the United States against any person or entity that has engaged in such violation. In such action, such person or entity shall be liable, in addition to any amounts otherwise recoverable, for a civil penalty in the amount of $5,000 to $50,000, as determined appropriate by the court for each violation.

''(B) In determining the amount of a civil penalty under subparagraph (A), the court shall take into account the degree of culpability, any history of prior such conduct,

ability to pay, effect on ability to continue to do business, and such other matters as justice may require.

''(b) ENFORCEMENT BY OTHER REGULATORY AGENCIES.—Compliance with the requirements imposed by this Act with respect to financial institutions shall be enforced under—

''(1) section 8 of the Federal Deposit Insurance Act, in the case of—

''(A) national banks, and Federal branches and Federal agencies of foreign banks, and any subsidiaries of such (except brokers, dealers, persons providing insurance, investment companies, and investment advisers) by the Office of the Comptroller of the Currency;

''(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organization operating under section 25 or 25A of the Federal Reserve Act, and bank holding companies and their nonbank subsidiaries or affiliates (except brokers, dealers, persons providing insurance, investment companies, and investment advisers) by the Board of Governors of the Federal Reserve System; and

''(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, and any subsidiaries of such entities (except brokers, dealers, persons providing insurance, investment companies, and investment advisers) by the Board of Directors of the Federal Deposit Insurance Corporation;

''(2) section 8 of the Federal Deposit Insurance Act, by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation and any subsidiaries of such saving associations (except brokers, dealers, persons providing insurance, investment companies, and investment advisers);

''(3) the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any federally insured credit union, and any subsidiaries of such an entity;

''(4) State insurance law, by the applicable State insurance authority of the State in which a person is domiciled, in the case of a person providing insurance; and

''(5) the Federal Trade Commission Act, by the Federal Trade Commission for any other financial institution or other person that is not subject to the jurisdiction of any agency or authority under paragraphs (1) through (4).

''(c) PRIVATE CAUSE OF ACTION.—A servicemember, dependent, or other person protected by a provision of this Act may commence an action in a district court of the United States, or in a State court of competent jurisdiction, to seek enforcement of the protection afforded by such provision.

''(d) CONSTRUCTION OF ENFORCEMENT.—

''(1) ENFORCEMENT BY FTC.—The enforcement of the provisions of this Act by the Federal Trade Commission pursuant to subsection (a) shall be in addition to any other enforcement of such provisions by the Department of Justice, private cause of action, or other mechanism afforded by State law.

''(2) CONSTRUCTION OF REMEDIES.—The remedies for violations of the provisions of this Act provided for under subsections (a), (b), and (c) are in addition to any other remedies for violations of such provisions under Federal or State law.''.

(2) CLERICAL AMENDMENT.—The table of contents in the first section of that Act is amended by adding at the end the following new items:

''TITLE VIII—ENFORCEMENT

''Sec. 801. Administrative enforcement.''.

(b) LIABILITY FOR NONCOMPLIANCE.—

(1) Section 301(c) of the Servicemembers Civil Relief Act (50 U.S.C. App. 531(c)) is amended by striking paragraph (2) and inserting the following new paragraphs:

''(2) CIVIL LIABILITY FOR NONCOMPLIANCE.—Any person or entity (other than a servicemember or dependent) who fails to comply with any requirement imposed by this section with respect to a servicemember or dependent is liable to such servicemember or dependent in an amount equal to the sum of—

''(A) any actual damages sustained by such servicemember or dependent as a result of the failure;

''(B) such amount of punitive damages as the court may allow;

''(C) such amount of consequential damages as the court may allow;

''(D) such additional damages as the court may allow, in an amount not less than $100 or more than $5,000 (as determined appropriate by the court), for each violation; and

''(E) in the case of any successful action to enforce liability under this section, the cost of the action together with reasonable attorneys fees as determined by the court.

''(3) ATTORNEY FEES.—On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for the purposes of harassment, the court shall award to the prevailing party attorney fees in amount that is reasonable in relation to the work expended in responding to such pleading, motion, or other paper.''.

(2) Section 302(b) of that Act (50 U.S.C. App. 532(b)) is amended by striking paragraph (2) and inserting the following new paragraphs:

''(2) CIVIL LIABILITY FOR NONCOMPLIANCE.—Any person or entity (other than a servicemember or dependent) who fails to comply with any requirement imposed by this section with respect to a servicemember or dependent is liable to such servicemember or dependent in an amount equal to the sum of—

''(A) any actual damages sustained by such servicemember or dependent as a result of the failure;

''(B) such amount of punitive damages as the court may allow;

''(C) such amount of consequential damages as the court may allow;

''(D) such additional damages as the court may allow, in an amount not less than $100 or more than $5,000 (as determined appropriate by the court), for each violation; and

''(E) in the case of any successful action to enforce liability under this section, the cost of the action together with reasonable attorneys fees as determined by the court.

''(3) ATTORNEY FEES.—On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for the purposes of harassment, the court shall award to the prevailing party attorney fees in amount that is reasonable in relation to the work expended in responding to such pleading, motion, or other paper.''.

(3) Section 303(d) of that Act (50 U.S.C. App. 533(d)) is amended by striking paragraph (2) and inserting the following new paragraphs:

''(2) CIVIL LIABILITY FOR NONCOMPLIANCE.—Any person or entity (other than a servicemember or dependent) who fails to comply with any requirement imposed by this section with respect to a servicemember or dependent is liable to such servicemember or dependent in an amount equal to the sum of—

''(A) any actual damages sustained by such servicemember or dependent as a result of the failure;

''(B) such amount of punitive damages as the court may allow;

''(C) such amount of consequential damages as the court may allow;

''(D) such additional damages as the court may allow, in an amount not less than $100 or more than $5,000 (as determined appropriate by the court), for each violation; and

''(E) in the case of any successful action to enforce liability under this section, the cost of the action together with reasonable attorneys fees as determined by the court.

''(3) ATTORNEY FEES.—On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for the purposes of harassment, the court shall award to the prevailing party attorney fees in amount that is reasonable in relation to the work expended in responding to such pleading, motion, or other paper.''.

(4) Section 305(h) of that Act (50 U.S.C. App. 535(h)) is amended by striking paragraph (2) and inserting the following new paragraphs:

''(2) CIVIL LIABILITY FOR NONCOMPLIANCE.—Any person or entity (other than a servicemember or dependent) who fails to comply with any requirement imposed by this section with respect to a servicemember or dependent is liable to such servicemember or dependent in an amount equal to the sum of—

''(A) any actual damages sustained by such servicemember or dependent as a result of the failure;

''(B) such amount of punitive damages as the court may allow;

''(C) such amount of consequential damages as the court may allow;

''(D) such additional damages as the court may allow, in an amount not less than $100 or more than $5,000 (as determined appropriate by the court), for each violation; and

''(E) in the case of any successful action to enforce liability under this section, the cost of the action together with reasonable attorneys fees as determined by the court.

''(3) ATTORNEY FEES.—On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for the purposes of harassment, the court shall award to the prevailing party attorney fees in amount that is reasonable in relation to the work expended in responding to such pleading, motion, or other paper.''.

(5) Section 306(e) of that Act (50 U.S.C. App. 536(e)) is amended by striking paragraph (2) and inserting the following new paragraphs:

''(2) CIVIL LIABILITY FOR NONCOMPLIANCE.—Any person or entity (other than a servicemember or dependent) who fails to comply with any requirement imposed by this section with respect to a servicemember or dependent is liable to such servicemember or dependent in an amount equal to the sum of—

''(A) any actual damages sustained by such servicemember or dependent as a result of the failure;

''(B) such amount of punitive damages as the court may allow;

''(C) such amount of consequential damages as the court may allow;

''(D) such additional damages as the court may allow, in an amount not less than $100 or more than $5,000 (as determined appropriate by the court), for each violation; and

''(E) in the case of any successful action to enforce liability under this section, the cost

of the action together with reasonable attorneys fees as determined by the court.

''(3) ATTORNEY FEES.—On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for the purposes of harassment, the court shall award to the prevailing party attorney fees in amount that is reasonable in relation to the work expended in responding to such pleading, motion, or other paper.''.

(6) Section 307(c) of that Act (50 U.S.C. App. 537(c)) is amended by striking paragraph (2) and inserting the following new paragraphs:

''(2) CIVIL LIABILITY FOR NONCOMPLIANCE.—Any person or entity (other than a servicemember or dependent) who fails to comply with any requirement imposed by this section with respect to a servicemember or dependent is liable to such servicemember or dependent in an amount equal to the sum of—

''(A) any actual damages sustained by such servicemember or dependent as a result of the failure;

''(B) such amount of punitive damages as the court may allow;

''(C) such amount of consequential damages as the court may allow;

''(D) such additional damages as the court may allow, in an amount not less than $100 or more than $5,000 (as determined appropriate by the court), for each violation; and

''(E) in the case of any successful action to enforce liability under this section, the cost of the action together with reasonable attorneys fees as determined by the court.

''(3) ATTORNEY FEES.—On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for the purposes of harassment, the court shall award to the prevailing party attorney fees in amount that is reasonable in relation to the work expended in responding to such pleading, motion, or other paper.''.

SEC. ____. OUTREACH TO MEMBERS OF THE ARMED FORCES AND THEIR DEPENDENTS ON THE SERVICEMEMBERS CIVIL RELIEF ACT.

(a) OUTREACH TO MEMBERS OF THE ARMED FORCES.—

(1) IN GENERAL.—The Secretary concerned shall provide to each member of the Armed Forces under the jurisdiction of the Secretary pertinent information on the rights and protections available to servicemembers and their dependents under the Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.).

(2) TIME OF PROVISION.—Information shall be provided to a member of the Armed Forces under paragraph (1) at times as follows:

(A) During initial entry training.

(B) In the case of a member of a reserve component of the Armed Forces, during initial entry training and when the member is mobilized or otherwise individually called or ordered to active duty for a period of more than one year.

(C) At such other times as the Secretary concerned considers appropriate.

(b) OUTREACH TO DEPENDENTS.—The Secretary concerned may provide to the adult dependents of members of the Armed Forces under the jurisdiction of the Secretary pertinent information on the rights and protections available to servicemembers and their dependents under the Servicemembers Civil Relief Act.

(c) DEFINITIONS.—In this section, the terms ''dependent'' and ''Secretary concerned'' have the meanings given such terms in section 101 of the Servicemembers Civil Relief Act (50 U.S.C. App. 511).

SEC. ____. SERVICEMEMBERS RIGHTS UNDER THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968.

(a) IN GENERAL.—Section 106(c)(5)(A)(ii) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(5)(A)(ii)) is amended—

(1) in subclause (II), by striking ''; and'' and inserting a semicolon;

(2) in subclause (III), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(IV) notify the homeowner by a statement or notice, written in plain English by the Secretary of Housing and Urban Development, in consultation with the Secretary of Defense and the Secretary of the Treasury, explaining the mortgage and foreclosure rights of servicemembers, and the dependents of such servicemembers, under the Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.), including the toll-free military one source number to call if servicemembers, or the dependents of such servicemembers, require further assistance.''.

(b) NO EFFECT ON OTHER LAWS.—Nothing in this section shall relieve any person of any obligation imposed by any other Federal, State, or local law.

(c) DISCLOSURE FORM.—Not later than 150 days after the date of enactment of this Act, the Secretary of Housing and Urban Development shall issue a final disclosure form to fulfill the requirement of section 106(c)(5)(A)(ii)(IV) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(5)(A)(ii)).

(d) EFFECTIVE DATE.—The amendments made under subsection (a) shall take effect 150 days after the date of enactment of this Act.

SA 1914. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

SEC. . Of the amount appropriated in title III under the heading ''OTHER PROCUREMENT, NAVY'', up to $2,000,000 may be made available for the Surface Sonar Dome Window Program.

SA 1915. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

SEC. . Of the amount appropriated in title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE'', up to $1,000,000 may be made available for the Test Exploitation for Knowledge Discovery Toolkit.

SA 1916. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

SEC. . Of the amount appropriated in title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY'', up to $2,000,000 may be made available for the Critical Area Protection Systems High Resolution Situational Awareness Program.

SA 1917. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

SEC. . Of the amount appropriated in title III under the heading ''OTHER PROCUREMENT, AIR FORCE'', up to $1,500,000 may be made available for the Halvorsen Loader.

SA 1918. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

SEC. . Of the amount appropriated in title III under the heading ''RESEARCH, DEFENSE, TEST AND EVALUATION, DEFENSE-WIDE'', up to $1,000,000 may be made available for the Florida Supply Chain Program.

SA 1919. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

SEC. . Of the amount appropriated in title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY'', up to $1,000,000 may be made available for the Miami Children's Hospital Pediatric Brain Tumor and Neurological Disease Institute.

SA 1920. Mr. CHAMBLISS submitted an amendment to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, after line 25, add the following:

SEC. 8116. Of the amount appropriated by title II under the heading ''ENVIRONMENTAL RESTORATION, FORMERLY USED DEFENSE SITES'', $400,000 shall be made available for removal of unexploded ordnance at Camp Wheeler, Georgia.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on September 29, 2005, at 9:30 a.m., in open session to receive testimony on United States military strategy and operations in Iraq.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet

during the session of the Senate on September 29, 2005, at 11:45 a.m., to conduct a vote on the nomination of Mr. Keith E. Gottfried, of California, to be General Counsel of the U.S. Department of Housing and Urban Development; Mr. Israel Hernandez, of Texas, to be Assistant Secretary of Commerce and Director General of the U.S. and Foreign Commercial Service; Mr. Darryl W. Jackson, of the District of Columbia, to be Assistant Secretary of Commerce; Ms. Kim Kendrick, of the District of Columbia, to be Assistant Secretary of Housing and Urban Development; Mr. Franklin L. Lavin, of Ohio, to be Under Secretary of Commerce for International Trade; Mr. David H. McCormick, of Pennsylvania, to be Under Secretary of Commerce for Export Administration; Mr. Keith A. Nelson, of Texas, to be Assistant Secretary of Housing and Urban Development; Ms. Darlene F. Williams, of Texas to be Assistant Secretary of Housing and Urban Development; Mr. Emil Henry Jr., of New York, to be Assistant Secretary for Financial Institutions; and Mr. Patrick O'Brien, of Minnesota, to be Assistant Secretary for Terrorist Financing, Department of the Treasury.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, September 29, 2005, at 10 a.m., on Communications in Disaster, in SD 562.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, September 29, 2005, at 9:30 a.m. to hold a hearing on pending treaties.

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

COMMITTEE ON THE JUDICIARY

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, September 29, 2005 at 9:30 a.m. in Senate Dirksen Office Building Room 226.

Agenda

I. Nominations

Timothy Flanigan, to be Deputy Attorney General; and Susan Neilson, to be U.S. Circuit Judge for the Sixth Circuit.

II. Bills

S. 1088, Streamlined Procedures Act of 2005; Kyl, Cornyn, Grassley, Hatch.

S. Personal Data Privacy and Security Act of 2005; Specter, Leahy, Feinstein, Feingold.

S. 751, Notification of Risk to Personal Data Act; Feinstein, Kyl.

S. 1326, Notification of Risk to Personal Data Act; Sessions.

S. 1086, A Bill to Improve the National Program to Register and Monitor Individuals Who Commit Crimes Against Children or Sex Offenses; Hatch, Biden, Schumer.

S. 956, Jetseta Gage Prevention and Deterrence of Crimes Against Children Act of 2005; Grassley, Kyl, Cornyn.

S. 1699, Stop Counterfeiting in Manufactured Goods Act; Specter, Leahy, Hatch, DeWine, Cornyn, Brownback, Feingold.

S. 1095, Protecting American Goods and Services Act of 2005; Cornyn, Leahy.

H.R. 683, Trademark Dilution Revision Act of 2005; Smith–TX.

S. 1647, Hurricane Katrina Bankruptcy Relief and Community Protection Act of 2005; Feingold, Leahy, Durbin, Kennedy, Feinstein.

S. 443, Antitrust Criminal Investigative Improvements Act of 2005; DeWine, Kohl, Leahy.

COMMITTEE ON THE JUDICIARY

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to meet to conduct a hearing on ''Judicial Nominations'' on Thursday, September 29, 2005, at 2 p.m. in the Dirksen Senate Office Building room 226.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Thursday, September 29, 2005, for a committee hearing to consider the following nominations: 1. William F. Tuerk, Under Sec for Memorial Affairs, VA 2. Robert J. Henke, Asst Sec for Management, VA 3. John M. Molino, Asst Sec of Policy and Planning, VA 4. Lisette M. Mondello, Asst Sec of Public and Intergovernmental Affairs, VA 5. George J. Opfer, Inspector General, VA

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.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations be authorized to meet on Thursday, September 29, 2005, at 9:30 a.m., for a hearing entitled ''The Defense Travel System: Boon or Boondoggle?''

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

SPECIAL COMMITTEE ON AGING

Mr. STEVENS. Mr. President, I ask unanimous consent that the Special Committee on Aging to authorized to meet Thursday, September 29, 2005 from 10 a.m. in Hart 216 for the purpose of conducting a hearing.

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

SUBCOMMITTEE ON EAST ASIAN AND PACIFIC AFFAIRS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Subcommittee on East Asian and Pacific Affairs be authorized to meet during the session of the Senate on Thursday, September 29, 2005, at 2:30 p.m. to hold a hearing on U.S.-Japan Relations.

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

SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, AND INTERNATIONAL SECURITY

Mr. STEVENS. Mr. President, I ask unanimous consent that the Subcommittee on Federal Financial Management, Government Information, and International Security be authorized to meet on Thursday, September 29, 2005, at 3 p.m. for a hearing regarding ''GSA II: The Procurement Process from Start to Finish.''

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

PRIVILEGE OF THE FLOOR

Mr. INOUYE. Mr. President, I ask unanimous consent that privilege of the floor be granted to Jonathan Epstein, a legislative fellow in the office of Senator BINGAMAN, during consideration of this H.R. 2863 appropriations for the Department of Defense for fiscal year 2006 and any votes thereupon.

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

Mr. INOUYE. Mr. President, I ask unanimous consent that Susan Ball be granted the privilege of the floor during consideration of the Defense appropriations bill.

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

Mr. STEVENS. Mr. President, I ask unanimous consent that privilege of the floor be granted to Mr. David Bann, a detailee with Senator GREGG's office, during consideration of the fiscal year 2006 Defense appropriations bill.

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

Mr. STEVENS. Mr. President, I ask unanimous consent that Donnie Walker, a fellow serving in Senator COCHRAN's office, be granted the privilege of the floor during the duration of the consideration of fiscal year 2006 Defense appropriations bill.

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

Mr. STEVENS. Mr. President, I ask unanimous consent that Senator MCCAIN's legislative fellow, Navy CDR Shawn Grenier, be granted the privilege of the floor during consideration of H.R. 2863.

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

Mr. DURBIN. Mr. President, on behalf of Senator KENNEDY, I ask unanimous consent that Douglas Thompson, a Navy fellow in his office, be granted floor privileges during the consideration of H.R. 2863, the fiscal year 2006 Defense appropriations bill.

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

Mr. STEVENS. Mr. President, I ask unanimous consent that Mr. Andrew Schulman, a legislative fellow on Senator DOMENICI's staff, be given floor privileges for the duration of the debate on H.R. 2863.

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

JOINT REFERRAL OF NOMINATION

Mr. FRIST. Mr. President, as in executive session, I ask unanimous consent that the nomination of Franklin L. Lavin, of Ohio, to be Under Secretary of Commerce for International Trade, be referred jointly to the Committee on Finance and Banking, Housing, and Urban Affairs.

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

MEASURE READ THE FIRST TIME—S. 1802

Mr. FRIST. I understand there is a bill at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will please report the bill by title.

The legislative clerk read as follows:

A bill (S. 1802) to provide for appropriate waivers, suspensions or exemptions from provisions of title I of the Employee Retirement Income Security Act of 1974, with respect to individual account plans affected by Hurricane Katrina or Rita.

Mr. FRIST. I ask for a second reading and, in order to place the bill on the calendar under the provisions of rule XIV, I object to my own request.

The PRESIDING OFFICER. Objection is heard.

ORDERS FOR FRIDAY, SEPTEMBER 30, 2005

Mr. FRIST. Mr. President. I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Friday, September 30. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and there then be a period of morning business with Senators permitted to speak for up to 10 minutes each.

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

PROGRAM

Mr. FRIST. Mr. President, tomorrow is the last day of the fiscal year. During tomorrow's session, we will need to pass the continuing resolution, which is at the desk. Tomorrow morning, we will turn to that joint resolution and we expect a rollcall vote. We hope to have that vote by 10:15 in the morning. Senators should adjust their schedules accordingly.

After we complete the continuing resolution tomorrow, we will return to the Defense appropriations bill. Senators will be able to offer amendments at that time. On Friday, we will update all Members as to next week's schedule.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FRIST. 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 8:26 p.m., adjourned until Friday, September 30, 2005 at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 29, 2005:

NATIONAL CREDIT UNION ADMINISTRATION

GIGI HYLAND, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL CREDIT UNION ADMINISTRATION BOARD FOR A TERM EXPIRING AUGUST 2, 2011, VICE DEBORAH MATZ, RESIGNED.

FEDERAL TRADE COMMISSION

J. THOMAS ROSCH, OF CALIFORNIA, TO BE A FEDERAL TRADE COMMISSIONER FOR THE TERM OF SEVEN YEARS FROM SEPTEMBER 26, 2005, VICE THOMAS B. LEARY, TERM EXPIRED.

UNITED NATIONS

MARGARET SPELLINGS, OF TEXAS, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE THIRTY-THIRD SESSION OF THE GENERAL CONFERENCE OF THE UNITED NATIONS EDUCATIONAL, SCIENTIFIC, AND CULTURAL ORGANIZATION.

THE JUDICIARY

JAMES HARDY PAYNE, OF OKLAHOMA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE TENTH CIRCUIT, VICE STEPHANIE K. SEYMOUR, RETIRED.

CONFIRMATION

Executive nomination confirmed by the Senate Thursday, September 29, 2005:

SUPREME COURT OF THE UNITED STATES

JOHN G. ROBERTS, JR., OF MARYLAND, TO BE CHIEF JUSTICE OF THE UNITED STATES.

EXTENSIONS OF REMARKS

THANKING FRANK MILASI FOR HIS SERVICE TO THE HOUSE

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. NEY. Mr. Speaker, on the occasion of his retirement in November 2005, we rise to thank Mr. Frank Milasi for 28 years of distinguished service to the United States House of Representatives. Frank has served this great institution as a valuable employee at House Information Resources (HIR), in the Office of the Chief Administrative Officer.

Throughout his career with HIR, Frank has held many positions of increasing responsibility. He began his tenure with the United States House of Representatives on August 1, 1977 as a Senior Programmer. While serving in HIR, Frank addressed long needed automation and reporting issues in each area of benefits administration, which enabled compliance with all House reporting and auditing requirements. Due to his development of the computer generated Revised Substitute Standard Form 2010 ''Notice of Change in Health Benefits Enrollment,'' the U.S. House of Representatives became one of the first Federal Agencies to have this form approved for use.

Frank displayed great passion for his work by personally dedicating himself to ensuring that the Financial Management System (FMS) met the needs of the U.S. House of Representatives' payroll and Human Resources requirements. As a Senior Software Engineer, he applied his exceptional analytical and programming technical skills to the development, design and implementation of many payroll services provided to the House community. Included in these services is the NFC Thrift Savings Plan (TSP). Frank's work enabled the House to be one of only three government agencies that provided this benefit on time and correctly. Frank's expertise in FMS with over 900,000 lines of code has resulted in more than 3.5 million payroll payments. In addition, as he prepared to retire, Frank played a major role in the implementation of the new payroll and benefits system, HR Pay Links.

His standard of excellence, dedication to passionate customer service, professionalism and ability to get the job done earned him three Distinguished Service Awards, the Chief Administrative Officer's highest honor. He is admired by the people he led and appreciated by those he served. May he always look back on his accomplishments with pride.

On behalf of the entire House community, we extend congratulations to Frank for many years of dedication and outstanding contributions to the United States House of Representatives. We wish Frank many wonderful years in fulfilling his retirement dreams.

HONORING MAJOR GENERAL THOMAS P. MAGUIRE, JR.

HON. TIMOTHY H. BISHOP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. BISHOP of New York. Mr. Speaker, I rise to honor and recognize a great American patriot and good friend, retiring Major General Thomas P. Maguire, for his extraordinary accomplishments throughout a distinguished career.

As GEN Maguire steps down as New York's Adjutant General, I would like to take this opportunity on behalf of New York and a grateful Nation to express our gratitude for his diligence and exceptional leadership through our State's most trying times.

GEN Maguire assumed command of New York's National Guard in August 2001, just one month before the terrorist attacks on the Pentagon and World Trade Center. Under his command, the National Guard was thrust into unprecedented responsibilities in contributing to and strengthening our homeland security. His leadership was a critical component of restoring the safety and way of life for New Yorkers after September 11th.

It is for these reasons, and many others, that General Maguire should be recognized as a patriot and a great man. Tom graduated from Holy Cross College in 1969, just as I began my college career at the same school. He left with a Degree in History and as a distinguished graduate of the Air Force Reserve Officer Training Program.

In 1970, he earned his wings, beginning a long and distinguished career that included 250 combat flights during his tour of duty in Vietnam. His military decorations included the Distinguished Flying Cross and the Air Medal with nine oak leaf clusters.

Upon his return, GEN Maguire served as a flight instructor before joining the New York Air National Guard's 137th Tactical Air Support Squadron in 1974. In the years that followed, GEN Maguire excelled in various commands and as a forward air controller, brigade liaison officer, standardization officer, air operations officer, Deputy Commander for Operations and Vice Commander before assuming command of the 137th in 1994. He is also a veteran of Operation Desert Storm.

Under GEN Maguire's command, New York's National Guard has not only performed its military mission with excellence, but it has also been an integral part of our state's emergency response force and contributed to many international disaster relief missions.

Mr. Speaker, on behalf of all New Yorkers, I thank and congratulate Major General Maguire for his outstanding service and a highly distinguished career. We wish him and his family continued success and a bright future in the years ahead.

STATEMENT ON JOSEPH McCARTHY

HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. HONDA. Mr. Speaker, on Tuesday, the House rejected legislation naming a post office after longtime Berkeley Councilwoman Maudelle Shirek. I cosponsored this legislation, and I believe strongly that the Federal Government should honor Maudelle Shirek for her many civic contributions.

This vote became a news sensation. My colleague, Rep. STEVE KING, told one newspaper that ''if BARBARA LEE would read the history of Joe McCarthy, she would realize that he was a hero for America.''

I could not disagree more, and I am alarmed that my colleague would exalt such a mean, vindictive, tyrant.

Senator McCarthy blindly accused his enemies of communism and homosexuality without any evidence or genuinely patriotic motive. This corrupt bully exploited the fears of the American people to boost his own political career.

Senator McCarthy's only achievement was inspiring an anti-communist hysteria that ruined the lives of thousands of innocent Americans.

As a Japanese American, I know the devastating effects of mass fear and hysteria. During World War II, my family and thousands of other Japanese American families were forced into camps—deprived of their dignity, liberty, and property.

At a time like this, I am reminded of the words of Special Counsel for the Army Joseph Welch, who in a 1954 hearing poignantly asked of Senator McCarthy, ''Have you no sense of decency, sir, at long last?''

THANKING MR. JOHN MANG FOR HIS SERVICE TO THE HOUSE

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. NEY. Mr. Speaker, on the occasion of his retirement in September 2005, we rise to thank Mr. John Mang for 30 years of outstanding service to the U.S. House of Representatives.

John began his career at the House on September 15, 1975, working as a Programmer Analyst in House Information Systems for the Committee on House Administration. John was a key player in the development of the Financial Management System (FMS). In addition, John contributed to the Client Support System, the Parking Office Permits System, the Lobby Act Support System, the Office of Telecommunications Management Information System, the House Recording Studio system, the Legislative Information Management System, and others.

As a Senior Software Engineer in the House Information Resources Information Management Directorate's Applications Support Branch, John made significant contributions as a team member in the implementation and enhancement of the Fixed Assets and Inventory Management System (FAIMS). FAIMS is a mission critical system used by the Chief Administrative Officer to collect, record and report official financial information on fixed assets, generate related payments, and report on Accounts Payable, Purchasing and General Ledger activities.

John has been a valuable, loyal, hard-working and customer-oriented employee, who takes pride in consistently delivering quality products to customers. His great attention to detail and passion for his work have resulted in special recognition for his work on FAIMS and FMS. John has dedicated himself to ensuring that the needs of his customers in the Office of Finance, House Support Services, the Sergeant at Arms, the Congressional Budget Office, the Office of the Clerk, and the Committees are met. John's adaptability, his extensive knowledge of software engineering, and his excellent relationship with his customers were invaluable to deploying and enhancing FAIMS.

On behalf of the entire House community, we extend congratulations to John for his many years of dedication and outstanding contributions to the House of Representatives. We wish John many wonderful years in fulfilling his retirement dreams.

HONORING PAUL SIDNEY

HON. TIMOTHY H. BISHOP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. BISHOP. Mr. Speaker, I rise to congratulate a good friend, neighbor and constituent, Mr. Paul Sidney, for his extraordinary accomplishments, which are being celebrated and honored by winning this year's Long Island Lifetime Achievement Award.

Everyone on Long Island knows Paul Sidney is the man behind the music. He is the president, general manager and program director of radio station WLNG, owned by the independent Main Street Broadcasting Company and based in Sag Harbor in my district on eastern Long Island.

Paul Sidney's broadcasts can be heard from Mastic to Montauk. The signal even reaches parts of Rhode Island and Connecticut. Listeners tuning into 92.1 FM are almost always certain to hear sounds that were the standards when Paul was growing up in Brooklyn.

After graduating from NYU with a communications degree, Paul launched his career playing oldies for WLIS-FM in Old Saybrook, Connecticut. While the radio industry nationwide and locally has witnessed considerable change in that time, WLNG established its signature style long ago with Paul leading the way and building a loyal, ever-growing fan base on Long Island that continues to feed off his charisma and his familiar, swift-talking voice.

Paul and WLNG have been in business for 41 years. He has worked tirelessly to solidify ties to local businesses, including advertisers ranging from Lamplighter Wines in Southampton to Hildreth's Department Store in the East End to Suffolk County National Bank. The station hosts some 250 live remote broadcasts each year from local stores, street fairs, antique auctions, car shows, and sporting events. It even broadcast live from the Cole Brothers Circus, when it appeared in Southampton and Greenport.

At most of these remote broadcasts, Paul works from the mobile control room, and one or two of the other D.J.'s host live on-the-air interviews in the crowd. When not broadcasting from a remote location, Mr. Sidney and his staff work out of their modest studio on Redwood Road, by the waterfront of Sag Harbor Cove.

The station reflects Paul's style by still embracing old-fashioned radio favorites. Listeners also regularly receive a big dose of local news, weather and information, like birth announcements, birthday and anniversary wishes and reports of missing pets. Perhaps the spirit of his radio station was best summed up when Paul recently said, "If someone loses their puppy, we treat it as a big deal. . . This is radio the way it used to be, being with the community, talking to them."

Mr. Speaker, on behalf of all of his devoted listeners on Long Island, it is with great pride that I recognize one of Long Island's trademark personalities and congratulate Paul Sidney for winning this year's Lifetime Achievement Award. We look forward to hearing him on the radio well into the future and wish him and his family well.

HONORING THE EXCELLENCE OF WEST VIRGINIA IN HOSPITALS

HON. NICK J. RAHALL, II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. RAHALL. Mr. Speaker, I rise today to pay tribute to three West Virginia hospitals that have been commemorated by the AARP, as being three of the Best Employers for Workers over the Age of 50. The well deserving hospitals include St. Mary's Hospital in Huntington, Cabell Huntington Hospital and West Virginia University Hospitals in Morgantown.

The AARP is among the premier advocacy groups for adults over 50. The award in question was quite competitive: the AARP received over 145 applicants from across the Nation. Only 50 winners were chosen, including the three West Virginia hospitals. Criteria used for selecting the winning employers included employee development opportunities, health benefits for employees and retirees, age of employer's workforce, alternative work arrangements, and retirement benefits. Nineteen percent of West Virginians age 65 and older are still in the work force.

These institutions have a proven track record, of accomplishment. Over the years they have proven their commitment to both their patients and employees alike. St. Mary's received the award for the third year and West Virginia University Hospitals were recognized for the second year. We in the Mountain State take pride in all our citizens. We are all thankful for the exemplary institutions that give individuals an opportunity to showcase their talents and I am very pleased that AARP has recognized West Virginia's role in what is the best healthcare in the world.

THANKING LYDIA BROWN FOR HER SERVICE TO THE HOUSE

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. NEY. Mr. Speaker, on the occasion of her retirement in September 2005, we rise to thank Lydia R. Brown for 21 years of outstanding service to the United States House of Representatives.

Lydia started in 1984 as an administrative assistant in the Office of Telecommunications under the Clerk of the House. Her fearless initiative and hard work allowed her responsibilities to expand to include paying district telephone bills. In 1997, Lydia transferred to the House Information Resources division of the Office of the Chief Administrative Officer. She became an inventory management specialist for HIR, performing a wide range of duties that included receiving equipment and supplies for HIR, requesting furniture and repairs, assisting with payment processing, ordering and distributing water for five locations in the Ford Building, and inventorying equipment. Lydia maintained the property records for HIR meticulously, bar coding all new equipment and ensuring that old equipment was disposed of properly. Lydia was an energetic worker for HIR who was willing to perform a variety of tasks.

In 2002, Lydia transferred to House Support Services under the Office of the Chief Administrative Officer, working for the Vendor Management division. Lydia's assignments included the payment of purchase orders for equipment, supplies, and furniture for Members, Committees, Officers, and Support offices of the House of Representatives. She made the transition from HIR inventory specialist to Vendor Management counselor swiftly and successfully. Lydia's energy, conscientiousness, and knowledge of the policies and procedures enabled her to be an industrious worker, providing passionate customer service for the House community. During the October 2001 anthrax incident, as Members and staff were relocated to an off-site location, Lydia worked tirelessly to coordinate and ensure delivery of equipment and supplies to House offices at the alternate location. Lydia has worked since she was 14 years old; she served her country in the Army reserves, and she also obtained degrees in Accounting and Business Administration. In her long career, Lydia has frequently gone above and beyond the call of duty. Today we commend her dedication, initiative, and hard work, and wish her many happy years of retirement.

DEPARTMENT OF JUSTICE APPROPRIATIONS AUTHORIZATION ACT, FISCAL YEARS 2006 THROUGH 2009

SPEECH OF

HON. MELISSA A. HART

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 2005

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 3402) to authorize appropriations for the Department of Justice for fiscal years 2006 through 2009, and for other purposes:

Ms. HART. Mr. Chairman, in 1994, Congress took a significant step forward in the fight against domestic violence by enacting the Violence Against Women Act (VAWA). Today, as part of the DOJ reauthorization, we are considering the reauthorization of VAWA (VAWA 2005), making it a stronger and more effective tool in the struggle to end domestic violence.

I have met with many of the domestic violence shelters and advocates in my district who tell me that VAWA is working. Victim Outreach Intervention Center provides services to survivors of domestic violence, sexual assault and other violent crimes. On an average year, VOICE provides services to over 3,000 people in Butler County.

The VAWA funding they receive has made a tremendous improvement in both the types of services they provide and also to the scale on which they are able to serve. Their counseling and advocacy services are substantially funded by VAWA. Without this money, VOICE would be unable to serve survivors at current levels; a waiting list for direct services, which could contain 20–25 survivors at a time, would have to be established.

In order to provide that basic level of service, VOICE would have to substantially decrease or eliminate programs, such as their Prevention/Education programming. Without the re-authorization of VAWA, the past 28 years of progress they have made in service to survivors would be set back tenfold.

Nearly one in four women experiences at least one physical assault by a partner during adulthood. As resources become stronger, more victims gain the courage to seek help. Now is not the time to retreat. The work at the state and local level has become more, not less, complex.

The programs and provisions of VAWA will continue the progress made over the past 10 years in three ways.

First, VAWA 2005 reinforces existing core programs like the STOP grants which have brought communities together to solve the problem of domestic violence. VAWA programs have provided training for hundreds of law enforcement officers on the dynamics of domestic violence and VAWA 2005 will attempt to solve the problem attrition among domestic violence professionals.

Second, with VAWA 2005 we ensure that the needs of uniquely vulnerable communities are met. One of the lessons we have learned over the past 10 years is that many victims face unique obstacles.

VAWA has helped fund specialized services to improve victim safety in rural areas, such as paying for ''attorneys on wheels'' to help rural women get to court or effective outreach programs in remote communities.

VAWA 2005 also addresses the unique challenges faced by persons with disabilities and elder victims of abuse, by offering services tailored to their circumstances and by educating their communities on how to best provide services.

Third, VAWA 2005 provides greater opportunities for victims to rebuild their lives. While domestic violence, dating violence, sexual assault, and stalking are fundamentally criminal justice problems, the solutions are not to be found in the criminal justice system alone.

VAWA 2005 will help victims rebuild their lives and create long term security for themselves and their children. It works to educate domestic violence prevention professionals, child welfare workers, and home visitors on how to identify and serve victims of domestic violence. Further, it provides guidance on preventing violence, rather than reacting to it.

We've come a long way since 1994, but people from my district tell me that our shelters are full and our hotlines are ringing off the hook. We need to continue with our mission to end violence against women and children. VAWA 2005 is an important step in that mission.

PASS THE CORPORATE PATRIOT ENFORCEMENT ACT OF 2005

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. NEAL of Massachusetts. Mr. Speaker, today marks the third time in as many Congresses that I have introduced the Corporate Patriot Enforcement Act. This legislation is designed to slam the door shut on a truly disgraceful corporate tax shelter.

Over the years, dozens of American companies have filed papers to trade in their U.S. corporate citizenship for citizenship in tax haven countries like Bermuda. By washing their hands of their U.S. citizenship, they are able to stop paying taxes on their foreign profits, draining more than $4 billion out of U.S. coffers.

The companies themselves don't move physically—their operations, their factories, and their workforce remain wherever they were before. They continue to earn their profits in this country. They've simply discovered a technicality that they can exploit to rid themselves of their fair share of taxes, leaving the rest of us to pay for the services that they consume.

Right now, we're struggling to fight two wars and rebuild a hurricane-ravaged gulf coast, on the heels of five enormous tax cuts. The rainy day has come, but we've spent the rainy day fund. Our Nation has never been deeper in debt. We need to take a sober look at our Nation's finances, and this is an excellent place to start.

Eventually all of us will have to sacrifice a little to pull our Nation through this time; we've done it before and we'll have to do it again. When the rest of the country is contemplating additional sacrifices, it's only fair to require that these wealthy corporations start to meet the responsibilities that they have so far succeeded at shirking.

I am proud to sponsor the Corporate Patriot Enforcement Act, and I would urge all my colleagues to join me in supporting this important legislation.

IN MEMORY OF RAY R. POLIAKOFF

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. BURGESS. Mr. Speaker, I rise today to remember Ray R. Poliakoff, a wonderful man and a friend to the community of Denton, Texas. Mr. Poliakoff passed away on Saturday, September 2, 2005 at Baylor Regional Medical in Plano. Ray was 86.

Ray R. Poliakoff was born March 12, 1919 and spent his life serving our country, committing his life to continuing education and working vigorously. He was a member of the United States Army in a Reconnaissance Intelligence Unit in Europe during World War II and was twice wounded in battle. After the war, he graduated from Indiana University with bachelor of law and doctor of jurisprudence degrees. He also received a Master of Arts degree in humanities from the University of Evansville, Indiana.

Throughout the years, Ray was very active in oil, gas and coal exploration and development. He held various executive positions in Northern Illinois Coal Corporation, Sentry Royalty Company, Sinclair Coal Company, Peabody Coal Company, AMAX Coal Company, Data Tech Corporation, and even independently produced oil for 12 years. During the period of 1949 to 1989, he also worked with various national and international concerns and individuals in coal, oil and gas, and other natural resource ventures and concessions in the U.S., Alaska, Canada, Europe, Australia, the Middle East and the Far East. Even though Ray retired in 1984 and in 1988 went on inactive status as an Indiana attorney in good standing, he remained a long-standing member of the American Bar Association and was, until recently, a member of the ABA Section on Natural Resources, Energy, and Environmental Law; Science and Technology; and Individual Rights and Responsibilities.

Today, I would like to recognize and celebrate Mr. Poliakoffs life. He was intelligent, thoughtful and a true American. Ray leaves behind his lovely wife, Dr. Ann Stuart, Chancellor of Texas Woman's University in Denton, his children and grandchildren. They are all in my thoughts and prayers. Ray will be deeply missed by his family and the community of North Texas.

ROCKVILLE MARYLAND'S COMMUNICATIONS TEAM

HON. CHRIS VAN HOLLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. VAN HOLLEN. Mr. Speaker, I rise today to congratulate Rockville, Maryland's Communications Team for its recent award in recognition of excellence in government programming.

The Rockville Channel, TRC 11, was recognized in 5 different categories at the awards banquet of the National Association of Telecommunications Officers and Advisors. The Rockville Channel consistently produces outstanding programming for the Rockville area and has often been recognized for excellence over the last 11 years.

I am also pleased that the City's Divisions of Graphics and Printing and Public Information recently combined to win two national awards at the City-County Communications and Marketing Association Conference in Atlanta. The Rockville Communications Teams provide a valuable public service and play a key role in my congressional district in keeping the public informed.

I applaud all members of the Rockville Communications Team for their outstanding efforts.

HOUSTON POLICE OFFICER MUZAFFAR SIDDIQI

HON. TED POE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. POE. Mr. Speaker, on October 1, 2005, the National Association of Police Organizations will honor law enforcement agencies and officers at the 12th Annual Top Cops Awards Ceremony here in Washington, DC. Officer Muzaffar Siddiqi of the Houston Police Department, a great man whom I have the privilege of knowing personally, is receiving an award at this prestigious event, and I join the city of Houston and all Texans in honoring this outstanding achievement.

As a former prosecutor and criminal court judge in Houston, TX, I have had a longstanding relationship with the Houston Police Department. I have witnessed many great works by police officers in Houston and the surrounding communities, and I can say without hesitation that Officer Siddiqi's record of service is exemplary. Having previously been named Houston Police Department Officer of the Year, Officer Siddiqi has received high honors throughout his career. His service has been recognized at all levels: city, State and Federal.

Before working for the Houston Police Department, Officer Siddiqi served as a police officer in Karachi, Pakistan. Since joining HPD, he has been a great asset in building positive relationships between law enforcement and Houston's South Asian and Middle Eastern communities. His work has been invaluable, and the people of Houston are fortunate to have a public servant of his caliber in uniform. As he honors the city of Houston with his service, Mr. Speaker, we must honor the selfless work of Officer Muzaffar Siddiqi.

JEAN D. MATHIS RETIREMENT: SEPTEMBER 30, 2005

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. RANGEL. Mr. Speaker, I rise today to acknowledge the retirement of Jean D. Mathis whose contributions to the United States Drug Enforcement Administration have been unparalleled.

Ms. Mathis was born on March 3, 1950 in Washington, DC. She attended DC public schools (Anthony Bowen Elementary, Randall Junior High and Dunbar High) and graduated from Howard University in 1972.

Ms. Mathis worked throughout her junior high, high school and college years and was introduced at an early age to work in government service.

Immediately following her graduation from college, she began her first full-time employment in the Federal Service with the District of Columbia Department of Corrections, where she worked until 1975. In October 1975, she began her employment with the United States Drug Enforcement Administration (DEA). Ms. Mathis distinguished herself from the beginning and quickly advanced through the ranks of the Operational Support Division. In 1990, Ms. Mathis was appointed as the Deputy Assistant Administrator of the Office of Personnel, becoming one of the first two women to enter DEA's Senior Executive Service (SES) and the first African-American woman promoted to the rank of SES. In 1994, Ms. Mathis was promoted to Assistant Administrator for Human Resources becoming DEA's first female Assistant Administrator.

Ms. Mathis's stellar career is marked by numerous exemplary achievements. Under her direction, the DEA instituted validated testing for senior law enforcement personnel, drug testing for employees and applicants, and psychological testing for Special Agents. In 1999, she played a vital leadership role in the opening of DEA's state of the art training facility in Quantico, Virginia. Ms. Mathis is a longstanding member of the National Organization of Black Law Enforcement Executives (NOBLE), and served as a member of the Training and Education Committee. She also chaired this committee for 2 years.

Ms. Mathis' outstanding work ethic and diligence have been recognized with a plethora of awards and commendations over the years. Moreover, her DEA accomplishments have been recognized government-wide as she distinguished herself and the DEA as a two-time recipient of the Presidential Rank Award for Meritorious Performance in 1995 and 2001.

Over the years, Ms. Mathis has participated in extensive training programs including Management Training at the John F. Kennedy School of Government, University of Southern California and is a 2003 Brookings Fellow. It was as a Brookings Fellow that Jean came to work in my office and I received the benefit of her experience and wisdom. I have been actively engaged in the problems associated with illegal narcotics throughout my congressional career and have been aware of the role of the Drug Enforcement Administration in the implementation of our national anti-narcotics policies. Yet Jean Mathis taught me a great deal and enhanced my understanding and appreciation of the complexities of addressing the challenges of narcotics addiction and control. She performed superbly as my Congressional staff assistant and I regretted her return to the DEA.

In summary, the essence of Ms. Mathis' career was captured in a number of performance award justifications over the years including several DEA Administrators for whom she worked directly. Among them was former DEA Administrator Thomas A. Constantine who stated, "Ms. Mathis leads by example, demanding high ethical standards and conscientious work. Her outstanding work ethic and diligence inspire and challenge her staff." Ms. Mathis has inspired all of those who were fortunate enough to work for or with her. Ms. Mathis' tenacious spirit and pursuit of excellence will be missed at DEA but will continue to inspire those who engage her throughout her retirement and personal endeavors.

CELEBRATING THE LIFE OF J. GEORGE MITNICK

HON. ARTUR DAVIS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. DAVIS of Alabama. Mr. Speaker, I rise today to offer a tribute to Mr. J. George Mitnick.

Jasper, Alabama was not George Mitnick's first home—he was a Connecticut Yankee who migrated south—but Jasper was where George made his fortune and found his wife. Jasper is also a city that he shaped for over 5 decades: his footprints include the presidency of the local Chamber of Commerce and the Rotary Club; the Mitnick Wilderness Boot Camp for troubled teenagers; and of course, his role in founding Top Dollar, a retail chain of over 250 stores in 11 states.

George Mitnick helped make modern Jasper, but what made George Mitnick, above all, was the days he spent as an army captain helping to liberate Nazis death camps. George was a committed Jew before he entered those camps, but the degradation that he saw there alerted him to an existential threat to his people, and to the capacity of humans to violate each other.

Those camps never left George Mitnick's soul. They made him a vigilant defender of Israel's future and of American politicians who understood how essential Israel's future was to any vision of a just world. The death camps made him an activist—and I am honored that his activism led him to embrace my candidacy against a foe of Israel's aspirations. George was honored and humbled that his activism also made him AIPAC's "Man of the Year" in 2003.

I think that those awful, wretched camps also made George understand his adopted home better. George lived in Alabama during the years when the racial cauldron was boiling, and Alabama's ill temper on race was one of the aspects of his new state that he most disdained. He was a quiet, but real, force for integration in Jasper. George also raised a daughter who raised a daughter who married a black man. His grandson-in-law James, an African American, was one of George's pallbearers, and it is a measure of the Jasper that George help make that virtually no one stared at James' role. George's friends knew that tolerance was a Mitnick family value.

On August 6, 2005, J. George Mitnick died at the age of 87. I thank George for his faith and his life and for the promises he kept. I hope that my tenure in Congress will honor the world and the state he wanted to build. May the God of Abraham bless George Mitnick and his surviving wife Willene.

RECOGNIZING THE 100TH ANNIVERSARY OF WALLACE BAPTIST CHURCH

HON. JEFF MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. MILLER of Florida. Mr. Speaker, it is a great honor for me to rise today to recognize the 100th anniversary of Wallace Baptist Church in my district. Through several locations and many pastors, the church has continuously provided a place of worship for the people of northwest Florida.

Originally founded as the New Smyrna Baptist Church, a small congregation first met in Bagdad, Florida, in 1905. For nearly 40 years, the church met in that location, constantly adding new members to their congregation and establishing a reputation as a house where all were welcome.

The original 40 years added many people to the original congregation, and recognizing the need for more land, a group of 32 people in 1942 began meeting a short distance away in the Wallace Schoolhouse. The land had been donated to them by a local family interested in seeing the local community prosper. Less than a year later, the church had its own building constructed and continued to use the pulpit from their first building. The pulpit still exists to this day, though it is no longer used. In addition, wood from the original building was used for construction of the new podium, instilling a physical sense of tradition that the church carries with it as it continues into the future.

Approximately 20 years later, now under the name of Wallace Baptist Church, a larger auditorium was constructed to accommodate the increasing size of the church's membership. The previous building, adjacent to the auditorium, remained in use as a meeting place for Sunday School. A few years later, recognizing their long-term stability and consistent growth both in congregation size as well as services offered, the church voted to incorporate as Wallace Baptist Church.

The church continued to add facilities over the next several decades as it continued to flourish, so I much so that in 2003 the more than 300 members of the church saw the pressing need for a larger main sanctuary and voted to have one built. The groundbreaking on the new site occurred earlier this year. Under the present leadership of Rev. Lee Botts and having already shown consistent growth, I am confident that the church and its mission will continue to be recognized by many as a great place to worship, continuing to serve the community well into the future.

Mr. Speaker, on behalf of the U.S. Congress, I am proud of the success of Wallace Baptist Church over the last 100 years and look forward to its next century of service.

RECOGNIZING 94TH CELEBRATION OF NATIONAL DAY IN REPUBLIC OF CHINA (TAIWAN)

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. TOWNS. Mr. Speaker, I rise to recognize the 94th celebration of National Day in the Republic of China (Taiwan).

Today, I join with the Taiwanese people as they celebrate their freedom. Taiwan has peacefully overcome authoritarian rule to attain democracy. It will hopefully constitute a model for the eventual establishment of a genuine democracy in China. The U.S. and Taiwan value human rights, civil liberties, a free press and the rule of law. Our shared values have produced a strong and dependable friendship for over 50 years. Today, the people of Taiwan determine their own destiny and government through free and fair elections.

Many of my colleagues will be surprised to learn that Taiwan is our 8th largest trading partner. A recent survey by the World Economic Forum ranked Taiwan fifth in the world and first in Asia for growth competitiveness. The Taiwanese have been increasing their demands for American goods becoming a more valuable trading partner. The Taiwanese people have also achieved economic prosperity with one of the highest standards of living in the world. It is impressive to find that less than 1 percent of the population lives below the poverty line. Now a strong member of the World Trade Organization, Taiwan's market-based economy is now the 12th largest in the world.

The government of Taiwan was one of the first to come to our aid after the events of September 11th and Hurricane Katrina. Taiwan continues to be our ally in the war on terrorism by cooperating with humanitarian assistance in Iraq and Afghanistan and providing intelligence. They have shown generosity and compassion by contributing to the Twin Towers Fund and Pentagon Memorial Fund, and now to the victims of Hurricane Katrina.

I hope that its neighbors, especially those in China, will notice Taiwan's celebration of freedom, democracy, and a market economy. I hope Taiwan and China will work together and cultivate a future based on respect, democracy, and freedom. I am encouraged by reports that Taiwan's President, Chen Shui-bian is willing to hold a summit with President Hu Jintao and resume dialog on cross-strait issues.

It is with great pleasure I congratulate Taiwan, our friend and ally, on the celebration of their 94th National Day, October 10, 2005.

PERSONAL EXPLANATION

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. MENENDEZ. Mr. Speaker, I was absent from votes in the House on Tuesday, September 27th, due to a previous and unavoidable commitment. Therefore, I was unable to vote on H.J. Res. 66, a resolution supporting the goals and ideals of "Lights On Afterschool!", a national celebration of after-school programs (rollcall No. 494); and H. Con. Res. 209, a resolution supporting the goals and ideals of Domestic Violence Awareness Month (rollcall No. 496). Had I been present, I would have voted "aye" on both these measures considered by the House.

HONORING CAPTAIN RUSS KELLER, UNITED STATES NAVY

HON. HENRY E. BROWN, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. BROWN of South Carolina. Mr. Speaker, I rise today to recognize and honor Captain Russ Keller, United States Navy, as he retires upon completion of more than 26 years of honorable and faithful service to our nation.

A native of Pittsburgh, PA, Captain Keller was appointed to the United States Naval Academy in 1975 and graduated with the class of 1979. Following initial nuclear power and submarine training, he reported to his first submarine, USS *Trepang* (SSN 674), where he served as the reactor controls assistant and later as the weapons officer. His assignment on *Trepang* was followed by a shore assignment in the Pentagon as flag lieutenant and aide for the Navy's Director of Research, Development, Test and Evaluation. Captain Keller next attended Harvard University's John F. Kennedy School of Government, where he earned a masters in public administration degree. Following his tour at Harvard, he returned to sea as the Navigator on board USS *Simon Bolivar* (SSBN 641) (BLUE), where he completed five strategic deterrent patrols in the final days of the Cold War. Upon departing *Simon Bolivar*, Captain Keller remained at sea as the executive officer on board USS *Narwhal* (SSN 671), where he prepared the ship's crew to return to sea following a 37-month refueling overhaul. Following his tour as Executive Officer, Captain Keller was assigned to the Navy Staff in Washington, DC where he served in the strategy and concepts branch. In June 1995 Captain Keller received the most coveted and demanding of all naval assignments when he was selected for Command at Sea. He served as the Commanding Officer of USS *Springfield* (SSN 761) for 31 months, during which time the ship completed several independent submarine missions vital to national security.

Based on his successful command tour, Captain Keller was selected by the Navy's Chief of Legislative Affairs to serve in the Office of Legislative Affairs, where he was assigned initially as the submarine and strategic programs liaison officer. Following two years working these issues, he was promoted internally and assigned as the Director of Naval Programs, with responsibilities for all Navy procurement, operations and maintenance, and research and development programs. His tenure in the Office of Legislative Affairs spanned five defense authorization bill cycles and earned him the trust and respect of members of Congress, committee and personal staff members as well as senior officials in the Department of the Navy. A role model and mentor to those who worked for and with him, he made his impact on people as well as programs. Through his brilliant insight and dedication, he contributed directly to the future readiness of the United States Navy and the nation.

In September 2002 Captain Keller was selected for major command, and served his final tour on active duty as the Commanding Officer of the Naval Nuclear Power Training Command in Charleston, SC from July 2003 until July 2005. Under his supervision, thousands of future naval nuclear operators and

supervisors completed the most rigorous academic training program in our military while being imbued with the highest standards of personal integrity and reliability.

Captain Keller's distinguished awards include the Legion of Merit, the Meritorious Service Medal, the Joint Service Commendation Medal, the Navy and Marine Corps Commendation Medal, the Navy and Marine Corps Achievement Medal and numerous unit and campaign awards.

The Department of the Navy, the Congress, and the American people have been defended and well served by this dedicated Naval Officer for more than 26 years. Captain Russ Keller long will be remembered for his leadership, service and dedication. He will be missed.

Mr. Speaker, I am proud to have Russ and Chris Keller as constituents. I ask my colleagues in the 109th Congress to join me in congratulating him and wishing him the best of luck in all his future endeavors.

RECOGNIZING THE IMPORTANCE OF DEMOCRACY IN AZERBAIJAN

HON. JACK KINGSTON

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. KINGSTON. Mr. Speaker, I wish to include in the RECORD an article by Azerbaijan Ambassador to the United States Hafiz Pashayev. This was published in The Washington Times on September 11, 2005 and is a great testament to the progress made in Azervaijan toward holding peaceful and fair elections.

In a recent visit to Azerbaijan as National Democratic Institute chairman, former Secretary of State Madeleine Albright said, ''Election day is important, but the months leading up to the elections are also crucial.''

She referred to the parliamentary elections to be held Nov. 6, when the citizens of Azerbaijan go to the polls to elect their representatives to parliament, or Milli Mejlis.

The Bush administration views these elections are a litmus test of the Azerbaijan government's commitment to democracy. The U.S. Congress has weighed in by passing a resolution calling on Azerbaijan ''to hold orderly, peaceful, and free and fair elections in November 2005 in order to ensure the long-term growth and stability of the country.''

We are the first to recognize that independence, stability and prosperity depend on successful democratic reform. President Iham Aliyev wants an orderly transition, as our last few years of unprecedented economic growth would be jeopardized by political instability. Toward this end and to conduct elections according to international standards, the president issued an Executive Order outlining steps to be taken:

1. Allowing all political parties to organize rallies free from violence and intimidation.

2. Welcoming domestic and international election observers.

3. Providing access to media, thus ensuring fair coverage.

4. And ensuring central and regional authorities create the necessary conditions for exit polls.

Among many provisions of the Order already carried out are those that concern participation in the political arena by opposition parties. There has been dialogue between ruling and opposition parties, all opposition parties may freely conduct rallies and demonstrations and, thus far, all opposition activists-including those who called for overthrow of government in October 2003—have been allowed to become candidates if they wish. During his visit to Azerbaijan at the end of August, Sen. Richard Lugar, Indiana Republican, said: ''The opposition leaders underlined that the registration process of the MP candidates went well, which is a step forward compared to the previous elections'' President Aliyev went further by warning all regional election officials not to interfere in the old Soviet fashion, when ballot-stuffmg was common.

President Aliyev's insistence on free and fair elections in November is based on the idea Azerbaijan's secular government can coexit with its Muslim traditions.

Our vision is premised on the belief democratic pluralism will ensure, a peaceful outlet for dissent, eliminating the need for violent alternatives. Citizens of all ethnicities and political persuasions are free to advocate their positions peacefully.

Today, Azerbaijan is a vibrant, independent state. We have faced many challenges in our young country's life: preserving our independence in a tough neighborhood; making the transition from a shattered to a market economy; building government institutions and an independent judiciary; finding a peaceful solution to our conflict with Armenia; and developing our natural resources to world markets.

Throughout these difficult years, the United States has been a friend and ally of Azerbaijan. Our strategic partnership has blossomed since the attacks on America on September 11, 2001. Immediately after, the late President Heydar Aliyev visited the U.S. Embassy in Baku not only to express his condolences but to offer his full support. Today, we stand side-by-side in the global war on terrorism. Our troops proudly serve in Afghanistan and Iraq.

Azerbaijan's location between Russia, Iran and Turkey, coupled with our desire to integrate into-the Euro-Atlantic community, requires that we conduct a balanced foreign policy fostering development of democratic institutions and a strong economy. Azerbaijan has come this far without tangible foreign aid and expects to continue democratic and economic development, primarily through its own resources.

According to a recent survey by the International Republican Institute sponsored by USAID, an overwhelming majority of Azerbaijanis want economic and social development to be their government's priority concerns.

This November, the people of Azerbaijan will elect a Parliament I believe will accelerate our transition toward democratic pluralism to match the country's unprecedented economic growth. Mr. Lugar told the press in Baku: ''I sense in Azerbaijan a yearning for building strong democratic institutions.''

CELEBRATING THE BIRTH OF EMILY QUINN MUSTIAN

HON. JOE WILSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. WILSON of South Carolina. Mr. Speaker, today, I am happy to congratulate Rebecca and Ben Mustian of Columbia, South Carolina, on the birth of their beautiful baby girl. Emily Quinn Mustian was born on September 29, 2005 at 12:01 PM, weighing 7 pounds, 4 ounces and measuring 19 inches long. Emily has been born into a loving home, where she will be raised by parents who are devoted to her well-being and bright future. Her birth is a blessing.

TRIBUTE TO SOUTH LYNCHES FIRE DEPARTMENT

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to the South Lynches Fire Department and to recognize their 50 years of service to the South Carolina counties of Florence and Williamsburg. Chartered as the Lake City Rural Fire Department on January 27, 1955, they started with only one tanker. Today, they have 19 vehicles with which a full time staff and 125 volunteers provide fire and rescue services to the 250 square mile area that encompasses the South Lynches Fire District.

The original directors of the department in 1955 were S. Keels Brockington, Sr., H. Raymond Askins, Sr., Roy Rogers, J.P. Grimsley, L.W. McDaniel, Joe Tucker, and Walter Moody. Within 10 years, the department had completed a permanent home and secured a second tanker. The department changed its name in the middle 1970s to the Lower Florence County Fire Department as it had expanded its coverage beyond the Lake City area. In 1982, residents created the South Lynches Fire District establishing the area that the department currently services.

The South Lynches Fire Department today operates out of six locations within the district. The original station, in Lake City, is still operational. Station 2 ''Coward'' was built in 1971. Station 3 ''Camp Branch'' was built in 1979, Station 4 ''Cades'' in 1979, Station 5 ''Leo-Camerontown'' in 1979, and Station 6 ''Scranton'' in 1990.

Mr. Speaker, I ask that you and my colleagues join me today in honoring the South Lynches Fire Department as they celebrate their 50th anniversary. I thank each and every member of the Department for their service over the last 50 years and wish them great success and Godspeed in the future.

PERSONAL EXPLANATION

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. HYDE. Mr. Speaker, on September 28, 2005, I was absent for two votes because I was chairing a classified briefing with the Secretary of Defense providing information to members about U.S. efforts in Iraq. Had I been present, I would have voted "no" on rollcall vote No. 500, on motion to recommit and "yes" on rollcall vote No. 501 on passage.

A VALUABLE SERVICE FROM BLUECROSS BLUESHIELD OF SOUTH CAROLINA

HON. JOE WILSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. WILSON of South Carolina. Mr. Speaker, today I would like to announce that BlueCross BlueShield of South Carolina, BCBSSC, ably led by President Ed Sellers, is now offering a valuable service in doctors' offices throughout our State.

Recently, The Wall Street Journal reported that BlueCross BlueShield of South Carolina has begun to offer physician offices a swipe-card reader that will immediately inform members ''how much the insurer will pay and what the patient owes.''

Physicians can lease the swipe-card readers from Companion Technologies, a subsidiary of BCBSSC; the health insurer plans to send members a card that they can swipe through the readers, which will connect to the BCBSSC system through a broadband Internet line. The swipe-card readers will have the ability to process debit and credit card payments and provide information about eligibility and claims information.

Companion officials said they hope other health insurers will integrate the swipecard readers into their systems. Companion President Harvey Galloway said, ''Many doctors lose significant dollars because patients don't treat doctor's office payments like they do their Visa bills.'' He added, ''The advantage to the doctor's office is knowing, while they have the patient in front of them, how much the patient liability is, and not having to go after them after they leave the office.''

I am hopeful that this new benefit will prove to be helpful to patients and physicians throughout South Carolina.

THE MAUDELLE SHIREK POST OFFICE BUILDING

SPEECH OF

HON. BOB ETHERIDGE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 2005

Mr. ETHERIDGE. Mr. Speaker, I appreciate the opportunity to make a few comments about H.R. 438.

In the House we routinely name Federal post offices after notable Americans. In fact, last year I responded to a request from numerous constituents to name the post office in Dunn, NC after the late General William C. Lee.

The bill on the floor today, H.R. 438, would rename the post office at 2000 Allston Way in Berkeley, California after Ms. Maudelle Shirek. I am concerned about the lack of committee review over this bill, as H.R. 438 was not heard or marked up by the Government Reform Committee. It is the responsibility of the committee of jurisdiction to review the qualifications of the individual being honored and to determine if he or she should be a candidate for Federal recognition.

Despite my reservations about the review process for H.R. 438, I will vote for this legislation as a matter of routine congressional courtesy and respect for the bill's sponsor Congresswoman BARBARA LEE and her constituents.

SERVICEMEMBERS' GROUP LIFE INSURANCE ENHANCEMENT ACT OF 2005

SPEECH OF

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 2005

Mr. FILNER. Mr. Speaker, I rise today to urge support for the bill that is before us, H.R. 3200, the ''Servicemembers' Group Life Insurance Enhancement Act'' of 2005, a bill that I have cosponsored.

This bill will increase federally subsidized life insurance for military personnel to $400,000, and that increase will be permanent.

If one of our Nation's finest men and women is killed in the line of duty, it is our Nation's obligation to provide an insurance policy that can assist the family in meeting expenses. These changes make the insurance more in line with today's economy, and I support the passage of H.R. 3200.

There are a few other insurance changes, beyond H.R. 3200, that I believe are also the right steps to take. These changes would, first of all, affect the Service-Disabled Veterans Insurance, SDVI.

When this insurance began in 1951, the premiums were based on the 1940 mortality rate. Current standard life insurance policies have premiums based on the 2001 mortality rate—except for the SDVI, which still charges premiums based on a table that is 60 years out of date. This results in higher premiums, premiums that can be as much as 3 times what veterans should be paying.

The Independent Budget, prepared and endorsed by many Veterans' Service Organizations, has recommended that the mortality table be updated. I have introduced a bill, H.R. 2747, the ''Disabled Veterans Life Insurance Enhancement Act'', that would make this important change and decrease this premium payment for disabled veterans.

A second part of H.R. 2747 affects the mortgage life insurance for severely service-disabled veterans (VMLI). Currently, this insurance covers only about 55 percent of the outstanding mortgage balance. We know how the cost of houses has skyrocketed in many areas of our country. In May, 2001, an evaluation by the Department of Veterans Affairs recommended increased coverage. H.R. 2747 implements those recommendations by increasing the maximum which would be expected to cover 94 percent of mortgage balances.

Let us begin to update and fix the insurance for our service members and our veterans by passing H.R. 3200. And I also encourage my colleagues to cosponsor my insurance bill, H.R. 2747, which expands what we are doing here today to additional insurance provisions and programs.

INTRODUCTION OF LEGISLATION TO PROVIDE EQUITY FOR GRAND CANYON SUBCONTRACTORS

HON. RICK RENZI

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. RENZI. Mr. Speaker, I rise today to introduce legislation, with Congressman PASTOR and Congressman HAYWORTH, to authorize the National Park Service to pay for services performed by subcontractors under a contract issued for work completed at the Grand Canyon National Park.

In fiscal years 2002 and 2003, the Grand Canyon National Park issued approximately 43 task orders to Pacific General, Inc. (PGI), under an Indefinite Deliver/Indefinite Quantity contract. The value of these task orders was more than $17 million for several construction projects throughout the Park.

According to invoices sent to the Park, PGI certified that payments were being sent to subcontractors and suppliers. However, in January 2004, complaints were received by numerous subcontractors that they had not received payment from PGI. The National Park Service paid more than $10 million to PGI. Of this amount, PGI did not pay $1.3 million to subcontractors who performed the work.

The Washington Contracting and Procurement Office of the National Park Service performed an acquisition management review. In this review, the National Park Service it was discovered that the Park had failed to ensure that PGI obtained the necessary payment and performance bonds required by the National Park Service and required under the Miller Act (40 D.S.C. 270a).

On February 6, 2004, the National Park Service suspended further payment to PGI and issued a suspension notice to cease activity by the contractor. PGI has ceased business and it is unlikely that the Federal Government will recover the $1.3 million issued to PGI.

The subcontractors who were not paid by PGI fall into two categories. The first category consists of those subcontractors that performed work on various projects where the National Park Service had already paid PGI for the work. The second category of subcontractor is composed of subcontractors who performed work on various projects where the National Park Service had not paid PGI for the work. The National Park Service has withheld $906,335 in payment for this work that will be paid to the second category of subcontractors that performed work.

The National Park Service has been unable to pay the first category of subcontractors who performed work in the Grand Canyon National Park because contract law prohibits payment directly to subcontractors due to the lack of a direct, contractual relationship between the parties.

Mr. Speaker, this legislation authorizes the National Park Service to pay the $1.3 million to subcontractors who have performed work at Grand Canyon National Park and were not paid by PGI. This legislation only addresses this situation in the Grand Canyon National Park and the $1.3 million that the Park paid to PGI for work performed by the subcontractors.

Many small businesses in Arizona, Utah and Washington, have been affected by this unfortunate contract mismanagement. This legislation will fix a grave inequity for many of our

small businesses and ensure that these companies are paid for work already performed in the Grand Canyon National Park.

Mr. Speaker, I urge my colleagues to support this important legislation.

RECOGNIZING THE ACHIEVEMENTS OF BLANCA ALVARADO

HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Ms. ZOE LOFGREN of California. Mr. Speaker, today I rise to recognize the achievements of Santa Clara County Supervisor Blanca Alvarado. She continues to be a leader in local government and a national leader in the area of juvenile detention reform.

Blanca served 14 years as a San José City Councilmember representing San José's East Side before being appointed to the Santa Clara County Board of Supervisors in 1995, filling the position I vacated when I was elected to Congress. I heartily recommended her appointment and have supported her in her good works ever since.

The daughter of a miner, Blanca has always been involved in public life, whether it was helping her parents in union and political activities, hosting a women's radio show called ''Merienda musical,'' working for the Department of Social Services or acting as the local president of MAPA, the Mexican American Political Association.

I first met Blanca in the mid-1970's when we served together on the Housing Service Center board of directors before either of us had stood for public office. I found her then to be a caring person committed to her community and especially to the needs of the poor. Those qualities have continued throughout her life—both in her public and private efforts.

As a City Councilmember and Vice-Mayor, Blanca actively worked to build neighborhood organizations and developed community plans and partnerships to renovate impoverished neighborhoods.

Blanca's devotion to children is illustrated through projects such as the The East Initiative. The Initiative recognizes the importance of securing early access to parent support, health care, and social services for all children and their families. Blanca, as a member of the First Five Commission, lobbied for a school readiness program in the local school district. When the school district was not in a position to join with First Five in creating a school readiness program, the Commission partnered with the community and focused on the neighborhoods surrounding Cesar Chavez, San Antonio, and Arbuckle elementary schools. First Five allocated $750,000 in the first year of the East Initiative alone.

Blanca also leads the county-wide effort to eliminate inappropriate and unnecessary incarceration of youth, especially youth of color who are over-represented in the juvenile justice system. Because of her efforts, the county has become a national model in juvenile detention reform. Since the movement began in July 2002, law enforcement, the Probation Department, the Juvenile Court, community partners, and many other participants have committed to shifting their efforts from incarceration to community-based approaches for treating troubled youth, to allow troubled young people to turn their lives around and to have productive, hopeful futures.

One of the projects Blanca is most remembered for is her leadership in the conception—and development of the Mexican Heritage Plaza, opened in 1999 and now one of the largest Latino cultural centers in the Nation. Twelve years in the making, and built over a site once picketed by San José native son Cesar Chavez, the Plaza is a 55,000 square-foot cultural center with state of the art theatrical venues, a Smithsonian-affiliate gallery space and luscious thematic gardens that serve as a regional resource for cultural programming and education.

In addition to her years of friendship, I wish to thank Blanca Alvarado for a lifetime of public service and her determined efforts to achieve social change. ''¡Sí se puede!''

HONORING THE 100TH ANNIVERSARY OF CITIZENS BANK IN HARTSVILLE

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. GORDON. Mr. Speaker, I rise to recognize the 100th year of existence of the Citizens Bank located in Hartsville, Tennessee. The bank will celebrate its anniversary on October 1, 2005.

Citizens Bank was established in 1905 with $10,000 in capital. The bank's loan officers had a maximum loan authority of $300, enough to buy a small farm 100 years ago. They started keeping daily statements in 1923.

Citizens Bank never succumbed to the Great Depression; however, the bank did close twice during its century of history—once during the flood of 1927 and again during a storm in 1929 that left 18 inches of snow on the ground.

Originally, the bank rented space in downtown Hartsville, before building its own space by the Trousdale County Courthouse. In 1984, the bank built its current facility on Highway 25.

I wish President Wilson Taylor, Vice President Betty Sue Hibdon, Customer Representative and Public Relations Coordinator Gloria Dalton and all the employees who represent the heart of Citizens Bank much success with their celebration and the start of another century of service.

HONORING SERGEANT PAUL KARPOWICH OF FREELAND, PENNSYLVANIA, WHO WAS KILLED IN IRAQ IN DECEMBER 2004

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. KANJORSKI. Mr. Speaker, I rise today to ask you and my esteemed colleagues in the House of Representatives to pay tribute to the life of Sergeant Paul Karpowich, of Freeland, Pennsylvania, who was killed in action in Iraq in December 2004.

Sgt. Karpowich was 30 years old when he suffered the loss of his life while trying to liberate the Iraqi people and afford them the same opportunities we enjoy in a land ruled by democracy.

The victim of a suicide bomber whose treachery claimed the lives of 20 people, Sgt. Karpowich was one of 15 military personnel who were killed. The remaining five victims were civilian employees of Department of Defense contractors.

Sgt. Karpowich was remembered by many as a ''soldier's soldier.'' He joined the U.S. Army immediately after graduating from Bishop Hafey High School. He completed basic training at Fort Benning, GA and then went on to Fort Bragg, NC, where he graduated from paratrooper school, after which he joined the 82nd Airborne Division.

Sgt. Karpowich served as a drill instructor with the 98th Division's 1st Battalion, 417th Regiment, 1st Brigade.

He had recently been notified that he was about to be promoted to Master Sergeant, the second highest enlisted rank in the Army, when the bomb blast ripped through a mess tent in a forward operating base at Mosul, Iraq, where Sgt. Karpowich and hundreds of others were gathered.

The first Hazleton area resident to give his life in the Iraq War, Sgt. Karpowich's awards and decorations included the Army Commendation Medal, the Expert Infantryman's Badge, the Good Conduct Medal, the National Defense Service Medal and the Global War on Terror Medal.

Mr. Speaker, please join me in paying tribute to the life of a true American patriot whose courage and bravery transcended human frailty and shone like a beacon to inspire others.

Sgt. Karpowich well understood the importance of those objectives and willingly put his life in harm's way to help others enjoy the same liberties as we do. The world is a better place today because of the sacrifices made by Sgt. Karpowich and others like him.

ACKNOWLEDGING SANTA CLARA COUNTY ON ITS CONTRIBUTIONS TO HURRICANE KATRINA RELIEF EFFORTS

HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. HONDA. Mr. Speaker, I rise to acknowledge those in Santa Clara County, California who have offered assistance to the victims of Hurricane Katrina. Their efforts stand as a testament to the American spirit of generosity.

The local governments of Santa Clara County have responded with munificent offerings to the victims of Hurricane Katrina. The San José City Council and Santa Clara County Board of Supervisors each authorized $500,000 for the Santa Clara Valley American Red Cross to provide services to hurricane victims who arrive in the area. The San José Fire Department deployed firefighters to assist in the region devastated by Hurricane Katrina and stand ready as needed.

Local universities opened their academies and housing to those displaced by the hurricane. In fact, Santa Clara University admitted 75 students from New Orleans-based institutions Loyola University and Tulane University

after the hurricane forced the campuses to close. The San José Recovery Center is providing interim shelter and services for evacuees at a former student housing complex at San José State University. So far, the Center has served sixty-six people.

The Santa Clara Valley Transportation Authority responded as well by providing free bus passes to individuals and families, assuring mobility to access the medical services, education, and jobs.

United by the Santa Clara County CADRE (Collaborating Agencies Disaster Relief Efforts), many local community organizations have provided ongoing evacuee support. The Volunteer Center of Silicon Valley forwarded 900 housing offers while coordinating occupational opportunities for evacuees. Local businesses and individuals have also contributed generous cash, food, and supply donations to the recovery effort.

I commend the many individuals, organizations and agencies of Santa Clara County that contributed to the relief effort. I know that these donations and others from across the country have made a meaningful impact on the lives of the thousands of Gulf Coast residents still living in a state of uncertainty.

VIOLENCE AGAINST WOMEN ACT

HON. JAY INSLEE

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. INSLEE. Mr. Speaker, the House has voted to reauthorize the Violence Against Women Act (VAWA), a historic measure first passed in 1994. It marked when our country finally recognized that domestic violence is not a private family matter, but a national problem that requires a national response. Since VAWA passed, victims of domestic violence have more options to leave abusive relationships, local communities have developed critical programs to assist victims, and our criminal justice system has become better trained in prosecuting these unique crimes.

However, it is always the incident that happens in your backyard that will highlight the scope of a problem, such as domestic violence. In 2003, the state of Washington State became the focus of a national tragedy. Many have read in the papers the heartbreaking story of how, on April 26, 2003, Crystal Brame was shot in a grocery store parking lot by her husband, David Brame, chief of police for the city of Tacoma. Crystal Brame died one week later, and David Brame committed suicide at the scene.

In response to this tragedy, people in the state of Washington swiftly formed a statewide task force of domestic violence, law enforcement, and criminal justice system experts to determine the best practices for law enforcement agencies, focusing on prevention, training, enforcement, and response. Crystal's death and the state's response, illustrated that despite the progress since VAWA passed in 1994, tragedies of domestic violence live in our communities today, and that we must continue to work towards new solutions.

I think we can do a better job helping people like Crystal, whose abuser happened to be in a profession that responds to crimes of domestic violence. I have hopes that my colleagues will help put a stop to such tragedies and work with Mr. Norm Dicks, Mr. Adam Smith, and Mr. Dave Reichert, and me to commission a study by the Department of Justice to learn more about such incidences and the best response to officer-involved domestic violence. Ending domestic violence is an ongoing effort, and I have seen great improvements to this end. I would like to see an even stronger commitment so that other communities can prevent tragedies—like that of Crystal Brame from happening in their backyard.

HONORING THE NATIONAL ENDOWMENT FOR THE HUMANITIES ON ITS 40TH ANNIVERSARY

HON. JAMES A. LEACH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. LEACH. Mr. Speaker, I rise to recognize the 40th anniversary of the National Endowment for the Humanities and to offer my congratulations to its chairman, Bruce Cole.

In 1965, Congress discovered that the most successful democracies consist of the most informed, the most curious, and the most creative citizens. When the 89th Congress created the National Endowment for the Humanities, it declared that ''Democracy demands wisdom and vision in its citizens.''

For 40 years, the NEH has promoted ''wisdom and vision'' by advancing the study and understanding of history, literature, languages, archaeology, philosophy, and other humanities subjects, throughout the United States.

As Chairman Cole has so profoundly observed, ''The humanities are the study of what makes us human: the legacy of our past, the ideas and principles that motivate us, and the eternal questions that we still ponder. The classics and archeology show us whence our civilization came. The study of literature and art shape our sense of beauty. The knowledge of philosophy and religion give meaning to our concepts of justice and goodness.''

Today, the role humanities play in education is increasingly important. Of all the learning disciplines, they tap and expand the human imagination the most. In a world of exploding options for individuals and families, it is imperative that history provide reference points, and when there is no experience to serve as guide, that the imagination be stimulated, and perspectives applied and values brought to bear. Without reference to the guide posts of the humanities, society loses its soul. It becomes rudderless in the seas of societal change.

TENNESSEANS COME TOGETHER TO AID THE LOUISIANA PHILHARMONIC ORCHESTRA

HON. MARSHA BLACKBURN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mrs. BLACKBURN. Mr. Speaker, Tennesseans have a long tradition of volunteerism. In times of need, the Nation is able to count on our state.

In the aftermath of a truly devastating hurricane season, we've seen our state and our country come together to assist the gulf coast region. Tennesseans are opening their hearts and homes to evacuees and assisting with what will be a very long recovery. Our own Nashville Symphony will host a benefit concert on October 4, 2005 for the Louisiana Philharmonic Orchestra (LPO) as it struggles to survive. Nashville area businesses and the community have come together to reunite the LPO in our city for a benefit concert.

I ask my colleagues to join me in thanking Executive Director Alan Valentine, his team at the Nashville Symphony, and the many local businesses and supporters who've come together to aid the Louisiana Philharmonic Orchestra.

TRIBUTE TO LAXMAIAH MANCHIKANTI, PH.D

HON. ED WHITFIELD

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. WHITFIELD. Mr. Speaker, I rise to recognize one of my constituents, Laxmaiah Manchikanti, Ph.D of Paducah, Kentucky. Dr. Manchikanti has been practicing medicine in my Congressional District for the last 24 years. I have known Dr. Manchikanti for several years and have found him to be a man of incredible integrity who is devoted to helping others. He is an active member of the community as well as a forceful leader in the field of pain management. Dr. Manchikanti, an immigrant from India who is a naturalized citizen of the United States, exemplifies the fulfillment of the American dream.

Dr. Manchikanti is a well known physician with interests in many aspects of medicine, both in patient care, as well as academics. He specializes in anesthesiology with a sub-specialty in interventional pain management and is well known in the circles of interventional pain management. Apart from his interest in the clinical practice of anesthesiology and interventional pain management, he is also proficient in administrative medicine, patient advocacy, the economics of healthcare, medical ethics, and various other aspects of the profession.

Dr. Manchikanti is an avid clinical researcher with numerous publications in peer-reviewed journals with original contributions, along with book publications. He is also an internationally known teacher who has conducted multiple seminars. As President and founder of the American Society of Interventional Pain Physicians (ASIPP), Dr. Manchikanti has participated in the development of various guidelines, published on the Agency for Healthcare Research and Quality (AHRQ) web-site. Apart from this, he also functions as a consultant to companies which assess evidence including ECRI (formerly the Emergency Care Research Institute), which is in charge of the AHRQ web-site and others. He also serves as a member on the Carrier Advisory Committee of Kentucky.

Because Dr. Manchikanti is a specialist in pain management, many of the drugs he prescribes have the potential to become addictive. During a conversation I had with Dr. Manchikanti a few years ago, we discussed Kentucky's efforts to combat prescription drug abuse through the Kentucky All Schedules

Prescription Electronic Reporting System (KASPER) which monitors Schedule II through IV controlled substances to detect and deter abuse. Dr. Manchikanti touted the benefits of KASPER which allows him to receive a report on all of the controlled substances his patients have been prescribed.

The problem that Dr. Manchikanti identified was that while KASPER was effective in Kentucky, there was no mechanism to determine if his patients had been prescribed a controlled substance in another state. In Kentucky, which is bordered by seven states (four in my District alone), it is easy for an individual to engage in the practice of "Dr. Shopping." In an effort to address the problem, Dr. Manchikanti and the American Society of Interventional Pain Physicians (ASIPP) proposed legislation creating a national monitoring system based on KASPER whereby physicians in all states would have access to the controlled substance prescription information of their patients, no matter where they filled the prescription. To that end, Dr. Manchikanti and ASIPP submitted draft legislation entitled the National All Schedules Prescription Electronic Reporting Act (NASPER).

After reviewing the language and examining the idea, I decided to introduce NASPER with my colleague FRANK PALLONE during the 107th Congress. After three years of hard work by Dr. Manchikanti, ASIPP, and our supporters in Congress, we passed NASPER in both Houses of Congress and President Bush signed it into law on August 11th. NASPER combats prescription drug abuse through the creation of a grant program housed at the Department of Health and Human Services to help states establish and maintain state-operated prescription drug monitoring programs (PMPs). California established the first PMP in 1940. Nineteen additional states currently operate a PMP and five more are in the process of establishing them.

NASPER addresses one of the main impediments to existing PMPs—that they currently operate only on an intrastate basis while the diversion of drugs is an interstate problem. We help foster interstate communication by establishing some uniform standards on information and privacy protections that will make it easier for states to share information. Columbia University noted in a report released over the summer that between 1992 and 2003 the number of people abusing prescription drugs increased 94 percent—twice the increase in the number of people using marijuana, five times the number of people using cocaine, and 60 times the number of people using heroin. Even more disturbing, the report found a 212 percent increase in the number of children between the ages of 12 and 17 abusing prescription drugs.

NASPER, which is now Public Law 109–60, would not have been possible without the leadership provided by Dr. Manchikanti and ASIPP. I'm confident that the enactment of NASPER will give physicians and law enforcement an additional tool to help reduce the number of Americans abusing prescription drugs.

IN RECOGNITION OF BETTY GORHAM AND FIFTY YEARS AS A CHURCH ORGANIST

HON. MIKE ROGERS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. ROGERS of Alabama. Mr. Speaker, I rise today to pay tribute to Betty Gorham, who will be celebrating 50 years as a church organist on Sunday, October 2, 2005.

Betty Gorham is now the organist at First Baptist Church of Saks in Anniston, Alabama, and has been since October of 1975.

Betty Gorham began taking organ lessons at age seven in Chattanooga, Tennessee, where her family moved after her father's death in 1943. Her instruction continued until she was 16 years old, at which time she was performing at her home church, Eastdale Baptist Church. Her first full-time job as an organist was at Signal Mountain Baptist in Chattanooga in 1957, and was followed shortly by a move to Birmingham, Alabama, to play at Huffman Baptist Church. In fact, it was while playing the organ for a wedding rehearsal at this church that she met her future husband, Jim Gorham. They were married in 1958, and Betty followed her husband in several moves around the State of Alabama. They went first to Montgomery, where Betty played at Ridgecrest Baptist; then to Mobile in 1960, where she played at Westlawn Baptist; then back to Birmingham, Alabama, in 1963, where she played first at Fairfield Highlands Baptist Church and then at Center Point Baptist. Finally in 1973, the Gorhams moved to Anniston, Alabama, where she played at Parker Memorial and Heflin Baptist Church before beginning her long career at First Baptist Church of Saks.

Betty and Jim Gorham have now been married 47 years and have four grandchildren. In addition to her devotion to her family and her church and church music, Betty has found time to do charitable work in the community.

Let us all congratulate Betty Gorham on her 50 years of service as a church organist and thank her for her 30 years of service at First Baptist Church of Saks in Anniston, Alabama.

RECOGNIZING PRESIDENT CHEN SHUI-BIAN REPUBLIC OF CHINA

HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. HONDA. Mr. Speaker, I rise today to honor the citizens of Taiwan and to recognize their democratically elected President Chen Shui-bian who has made a stopover in the United States en route to Central America. I trust that President Chen has had a good visit in the U.S.

In the last five years, Taiwan has continued to impress the world as a prosperous island nation, free and democratic. Taiwan is truly committed to genuine democratization, as evidenced by the third direct presidential election of 2004.

By working together, Taiwan and China will have the potential to make significant contributions to peace, security and prosperity in the entire Pacific Rim. I sincerely hope that a framework will soon be established for peaceful interactions between the two sides. It is everyone's dream that rapprochement between Taiwan and China be possible within the shortest period of time and to all parties' satisfaction.

The people of the U.S. appreciate Taiwan's cooperation with the U.S. government in combating global terrorism and Taiwan's monetary contributions to the Twin Towers Fund and the Pentagon Memorial Fund. The relationship between Taiwan and the United States is strong and healthy. Ambassador David Tawei Lee is an effective bridge between the government of Taiwan and the government of the U.S.

Mr. Speaker, we must always remember Taiwan's important role in maintaining peace and stability in the Pacific Rim. To have permanent peace in the region, the U.S. must do its part in urging Taiwan and China to continue peaceful dialogue and exchanges.

COMMEMORATING THE NATIONAL ENDOWMENT FOR THE HUMANITIES' 40TH ANNIVERSARY

HON. DAVID E. PRICE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. PRICE of North Carolina. Mr. Speaker, today marks the 40th anniversary of the creation of the National Endowment for the Humanities—a small, independent Federal agency that each year puts millions of Americans in contact with the ideas, ideals, and institutions of our great Nation.

As co-chairman of the newly established Congressional Humanities Caucus, I would like to congratulate the Endowment's Chairman, Dr. Bruce Cole, and his dedicated staff on the agency's anniversary.

In establishing the NEH through the National Foundation on the Arts and Humanities Act of 1965, Congress declared that "encouragement and support of national progress . . . in the humanities . . ., while primarily a matter of private and local initiative, is also an appropriate matter of concern to the Federal Government." Acknowledging the Federal Government's interest in promoting progress and scholarship in the humanities, the 89th Congress expressed this interest in a single, powerful observation: "Democracy demands wisdom and vision in its citizens."

For 40 years, NEH has promoted "wisdom and vision" by advancing the study and understanding of history, literature, languages, archaeology, and philosophy throughout the United States. With the relatively small amount of funding provided by Congress to the agency each year, the Endowment provides important seed money for projects and programs including scholarly editions of the papers of historical and cultural figures, preservation of historically important books and newspapers, seminars and institutes for K–12 teachers and college and university faculty, major television documentaries, and educational museum exhibitions.

Beginning in 2002, at the direction of President Bush and with the support of Congress, NEH began a historic initiative, We the People. We the People is a multi-faceted, agency-wide program focused on examining significant events and themes in our Nation's history. The initiative is designed to expand

awareness and knowledge of the traditions and values that have formed our Nation, and to enhance appreciation of our civic institutions.

Because contact with the humanities encourages individuals and our Nation to seek knowledge and wisdom, to reflect deeply on issues, and to make sense of and find meaning in our cultural heritage, the mission of the NEH continues to be a worthy national enterprise.

I extend my congratulations to the NEH for its 40 years of service to the American people.

REMARKS IN SUPPORT OF HOUSE RESOLUTION 388

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. BURTON of Indiana. Mr. Speaker, yesterday the House of Representatives considered House Resolution 388, a resolution condemning the gross human rights violations committed by the Cuban regime, and expressing the support of this House for the right of the Cuban people to exercise their fundamental political and civil liberties. Unfortunately due to scheduled Committee hearings I was unable to be on the floor during debate on this extremely important resolution. As chairman of the International Relations Committee Subcommittee on the Western Hemisphere—and a long-standing critic of the Castro regime—and co-sponsor of the resolution, I want to take this opportunity to express my strong support for H. Res. 388. I would also like to thank my colleague from Florida, Congressman LINCOLN DIAZ-BALART—a true champion for the Cuban people—for introducing this resolution and once again highlighting the atrocious human rights violations the Cuban people continue to suffer at the hands of Castro's oppressive regime.

Since Castro assumed control of Cuba on January 1, 1959, fundamental human rights and basic living conditions have deteriorated tremendously. Most Cuban people live every day in fear of their government, thousands of whom risk their lives every year to flee the communist regime by any means necessary—even attempting to brave the hazardous 90-mile crossing between the United States and Cuba on makeshift rafts.

For a time, they tried to pretend that Mr. Castro had changed his ways, but events in Cuba over the past two years have reopened the eyes of the world community to the true evil nature of the Castro Regime. For example, Castro created a constitutional amendment permanently making socialism the official form of state government, and positioning himself to remain in power until he is either forcibly removed or deceased. In addition to these totalitarian mandates, he has staged the most sweeping crackdown on peaceful advocates of change in the history of Cuba.

On March 18, 2003, Fidel Castro ordered the arrest of many writers, poets, librarians, and pro-democracy activists in a large-scale operation to stifle any movement against his regime. Subsequently, some of the targeted individuals were released, but 75 remained in jail to be tried for their ''crimes'' against the country, citing Article 91 of Cuba's Penal Code that states, ''(anyone) who in the interest of a foreign state, commits an act with the objective of damaging the independence or territorial integrity of the state of Cuba.'' The Cuban government accused the dissidents of engaging in activities that could be perceived as damaging to Cuba's internal order, and/or perceived as encouraging to United States embargoes against the country.

The list of Cuban detainees published by Amnesty International in their ''Essential Measures'' brief of 2003 reveals some striking information. Among the detained are 23 people over the age of 50, as well as 5 others who are more than 60 years of age. I wonder what dissenting activities they were engaging in that would earn them a collective 1,242 years in prison. These peaceful pro-democracy advocates, whom Mr. Castro likes to call dissidents or ''enemies of the revolution,'' were convicted for activities such as: attending an assembly to promote civil society, possessing membership in the Committee on Cuban Human Rights, or publishing documents to be disseminated abroad that represent a clear means of implementing the measures established in Article IV of LIBERTAD, also known as the Helms-Burton Act, which would increase the United States sanctions and blockades against Cuba.

Three of the 75 activists rounded up during the regime's Spring 2003 crackdown on dissent are currently engaging in a hunger strike to protest the deplorable conditions of their confinement; contaminated food and water, excessive heat, filthy conditions and medical mistreatment.

Christian Liberation Movement member José Daniel Ferrer, who has not eaten for more than 22 days. He is serving a 25-year sentence for promoting the Varela Project, a constitutional petition calling for free elections, civil liberties and freedom for political prisoners. He recently was placed in a prison unit with dangerous common criminals, a tactic that Cuban authorities often use to harass and injure political prisoners.

Víctor Rolando Arroyo, an independent journalist and librarian, has been on a hunger strike for more than 16 days. In 2000 he spent 6 months in jail for giving out toys to children on Three Kings Day. Now he is serving a 26-year sentence. His wife says that he has been hospitalized. He has refused forced feeding and is severely dehydrated.

Félix Navarro, a democracy advocate and Varela Project activist, has shared the hunger strike in solidarity with Mr. Arroyo, who is in the same prison. Mr. Navarro is serving a 25-year term.

Just this past July, the Castro regime renewed its efforts to stamp out the pro-democracy movement.

On July 13, 2005, the Cuban Government detained 24 human rights activists who were participating in a solemn event in remembrance of the victims of the tugboat massacre of innocent civilians by the Cuban government on July 13, 1994. Human rights activists Rene Montes de Oca, Emilio Leiva Perez, Camilo Cairo Falcon, Manuel Perez Soira, Roberto Guerra Perez, and Lazaro Alonso Roman remain incarcerated from the July 13, 2005, event and face trumped up charges of ''disorderly conduct.''

On July 22, 2005, Members of the pro-democracy opposition in Cuba sought to demonstrate in a peaceful and orderly manner in front of the French Embassy in Havana, on behalf of the liberation of all Cuban political prisoners, and to protest the current policy of the European Union toward the Cuban Government. The Cuban regime mobilized its repressive state security apparatus to intimidate and harass, and eventually arrest and detain many of those who were planning on attending the peaceful protest. These leaders in the struggle for freedom in Cuba continue to be detained without cause.

The Cuban regime has also arrested more than 400 young Cubans, from late 2004 through June of 2005, as a ''measure of predelinquent security.''

The facts are undeniable; the Castro regime is just as committed today to repressing attempts by the Cuban people to bring democratic change to the island and denying the Cuban people their universally recognized liberties, including freedom of speech, association, movement, and the press as it was in 1959. That is why H.R. 388 is so important; because it sends a strong message to the Castro regime that this House will not forget—and it will not let the world community forget—those people who are suffering and dying in Cuban prisons for the so-called crime of speaking out against the injustices perpetrated by Castro and his henchmen.

Mr. Speaker—although I am very concerned about the state of democracy throughout the Western Hemisphere—as it stands today, Cuba is the only nation in the hemisphere that is a complete dictatorship. As U.S. service men and women put their lives on the line to bring freedom and democracy to people around the world who have long suffered under the hand of tyranny, we only need to look at Cuba to see what can happen when any Nation shuns democracy and subjugates itself to the whims of dictatorship.

I believe that because of the ills inflicted upon Cuba by the Castro regime, the transition from economic stagnation and political oppression to a democratic society built around the principles of respect for the rule of law and basic human rights—with a free economy—will be a challenging process, but it is an attainable endeavor. I have hope that there will be a day when the light of democracy shines in Havana. Until that day, I say to Mr. Castro—we will never forget.

HONORING THE AUGUSTUS LUTHERAN CHURCH

HON. JIM GERLACH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. GERLACH. Mr. Speaker, I rise today to honor the Augustus Lutheran Church in Trappe, Pennsylvania on the occasion of their 275th anniversary.

The Augustus Lutheran Congregation was founded with its first baptism on May 8, 1730. From there, the first church was built. Originally described by an early Church press release as a ''shrine of Lutheranism,'' the Augustus Lutheran Church has diligently served its community since 1743. The first church building was constructed by its first pastor, Henry Melchior Muhlenberg. Its construction, according to church documents, marks the beginning of the Lutheran movement in America.

This unique church also stands as an extraordinary symbol that emphasizes the impressive 275 years that the Augustus' ministry has served its community in Pennsylvania. The Augustus Lutheran Church has always had a close and reciprocal relationship with its community. Prior to the construction of the Church, the Augustus congregation built the first schoolhouse in Providence Township, Pennsylvania, where Muhlenberg served as one of the teachers. Consequently, in 1743 when the congregation decided to build a church, men in the community donated their labor and materials by hauling stone and timber, while the women and children split and shaved shingles for the roof. The official dedication ceremony took place on October 6, 1745 when a dedicatory stone was placed in the wall over the main entrance. In 1751, the gallery was erected to house the newly purchased pipe organ that was brought from Europe. This pipe organ was unique in that it was one of first pipe organs in any country church in America.

As the congregation grew throughout the next one hundred years, so did the need for a new church that could adequately accommodate its members. In 1852, a new cornerstone was laid and a new brick church was constructed. Throughout the following years, extensive reconstruction was done on the new church. Sunday school facilities were created, the pulpit was refurnished, and the pipe organ was electrified and enlarged by the addition of an echo organ chamber and chimes. In 1960, a new parish house was added and in 1987, new stained glass windows were added. Today, the Augustus Lutheran Congregation has grown substantially to include 480 families with 1,000 baptized members.

Mr. Speaker, I ask that my colleagues join me in recognizing the Augustus Lutheran Church for its rich and honored history and its exemplary contributions to the religious and community life of the Trappe area for the past 275 years.

SUPPORTING THE GOALS AND IDEALS OF ''LIGHTS ON AFTERSCHOOL!''

SPEECH OF

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 2005

Mr. EMANUEL. Mr. Speaker, I rise today in strong support of H.J. Res. 66, a resolution supporting the goals and ideals of ''Lights On Afterschool.'' Lights On Afterschool is a national celebration of after school programs and the dedicated people who keep them going.

After school programs play an important role in the lives of millions of school children throughout the United States. These programs provide fun and educational activities that help develop the social, emotional, physical, cultural, and academic skills of children, while giving them a safe and enriching alternative to the streets.

Students in my home town of Chicago benefit from hundreds of exciting after school options. Many of these are coordinated through After School Matters, a non-profit organization which partners with the City of Chicago, the Chicago Public Schools, the Chicago Park District, the Chicago Public Library, and the Chicago Department of Children and Youth Services to create a network of after school opportunities for teens in underserved communities.

Through After School Matters, Chicago teens take part in engaging activities that provide skills that translate to the workplace. After School Matters helps kids build positive relationships with adults and peers, providing them with access to educational and career opportunities in their neighborhoods and the city.

Programs such as After School Matters are making a difference in communities throughout the United States. These programs deserve our support, and I urge my colleagues to make after school programs a priority as we move through the budget process.

Mr. Speaker, I am pleased to take this opportunity to recognize the work of these dedicated people who help provide quality after school opportunities for children. On October 20th, I urge my colleagues to participate in ''Lights On Afterschool'' and honor the after school programs which serve their communities.

CONGRATULATING SHERIFF MARK HACKEL

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. LEVIN. Mr. Speaker, I rise to congratulate Sheriff Mark Hackel, who is the recipient of the 2005 Alexander Macomb Man of the Year Award from the March of Dimes.

Mark Hackel has dedicated his professional life to serving and protecting Macomb County. He began his career in 1981 as a dispatcher with the Macomb County Sheriff's Department and since then he has held every rank within the Department. Through hard work and determination, Mark was elected as Macomb County Sheriff in November of 2000.

Sheriff Hackel graduated from Sterling Heights High School in 1980. He received an Associate Degree from Macomb Community College in 1983, a Bachelor of Art Degree in Criminal Justice from Wayne State University in 1991, and a Master Degree in Public Administration from Central Michigan University in 1996.

To ensure excellence professionally, Sheriff Hackel has attended in 1994 the F.B.I. National Academy in Quantico, Virginia, and the United States Secret Service Dignitary Protection School in Washington D.C. He also has international training which includes Project Harmony Educational Exchange in Lviv, Ukraine and the Police Instructor Exchange Program in London, England.

In addition to being the Sheriff of the third largest county in Michigan, Sheriff Hackel serves his community in a number of other important capacities. He teaches young adults at Macomb Community College, is a Police Academy Instructor and an Advanced Police Training Instructor at the Macomb Criminal Justice Training Center.

Sheriff Hackel also participates in many community based organizations such as Mothers Against Drunk Driving, American Cancer Society, and Traffic Safety Association of Macomb. He has been a mentor through Winning Futures Mentoring Program and serves as a Fitness Council Advisory Board Member for Creating a Healthier Macomb.

Sheriff Hackel understands that many factors influence the law enforcement environment he is elected to lead and he seeks to bring about a better and safer community through all of his many endeavors.

Mr. Speaker, I have been privileged to work with Sheriff Mark Hackel and to see first hand his many effective endeavors. I ask my colleagues to join me recognizing Sheriff Mark Hackel for his commitment to excellence, and his professional and personal devotion to his community.

HONORING AND RECOGNIZING THE DEDICATION OF THE MOHAMMAD ATAYA PARK

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of the Ataya family for their collective vision, generosity and concern for the people of Twinsburg, especially the children, for donating their personal property and transforming it into a public park for residents of all ages to enjoy. Dr. Khalid Ataya, his wife, Dr. Alfida Ataya, and their three children, Dana, Samy and Ramsey, have dedicated the park in honor of Dr. Ataya's father, Mohammad Ataya.

Mohammad Ataya worked diligently to provide a safe and secure home for his family in America, and has also ensured that the cultural bridge connecting the Ataya family—from Cleveland to Lebanon—remains viable and strong. Mr. Ataya continues to be the center of his family, a living legacy defined by a steadfast dedication to his wife, nine children, and his many grandchildren.

In a clearing surrounded by trees, playground equipment, park benches and picnic tables spring from the green grass at Mohammad Ataya Park, located on Cambridge Street in Twinsburg. Plans are already in place to expand the playground and picnic area at the park—preserving a natural space where a sense of renewal is possible and where family unity abounds.

Mr. Speaker and Colleagues, please join me in honor and recognition of Dr. Khalid and Alfida Ataya, for their vision and generosity in entrusting their land to the Township of Twinsburg for use as a public park, in honor of Dr. Ataya's father, Mohammad Ataya. Mohammad Ataya Park will flourish as a vital preservation of green space and will exist as a peaceful and joyous haven, accessible to all citizens, today and for generations to come. As founding members of the Arab American Community Center for Economic and Social Services (AACESS), Dr. Khalid and Dr. Alfida Ataya continue to embrace an energetic spirit and a dedication focused on service to others, and their efforts and volunteerism continue to enhance our entire community.

HONORING COMCAST CARES DAY

HON. JIM GERLACH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. GERLACH. Mr. Speaker, I rise today to honor Comcast Cable Communications for their contributions to community service and volunteerism as demonstrated in their unique one-day Comcast Cares Day volunteer community project.

Comcast Cable Communications has an impressive history of investing in the people and the communities that they serve. From its founding more that 40 years ago, Comcast has diligently given back to its communities through various community outreach programs. In 1997, Comcast employees and their families participated in the Philadelphia Cares Day. The Philadelphia Cares Day began as a day of city-wide community service in the Comcast headquarters' hometown. Over the next several years, Philadelphia Cares Day became what is now known as Comcast Cares Day. Today, Comcast Cares Day, the signature event of the company, is a national day of volunteer service for Comcast employees and their families in all the communities where Comcast operates.

The goal of Comcast Cable Corporation is to have 30,000 volunteers go into the communities the company serves and give back by improving the community aesthetically and by creating a stronger social presence for the company. At each event, Comcast goes out of their way to provide free manpower, supplies, and refreshment for each event. Most importantly, Comcast Cares Day unifies the company with the local community by working together towards a common goal.

In 2004, Comcast employees and their families volunteered to give back to their community during Comcast Cares Day. This inspiring group of individuals logged an estimated 180,000 hours worth of service in their respective communities. After such an impressive turnout in 2004, Comcast hopes to exceed their number of volunteers in 2005 by completing projects such as cleaning, painting, landscaping, preparing meals at food banks, and refurbishing community parks and recreation centers.

Specifically our area, the spirit of volunteerism and activities of Comcast employees' creates a positive impact on the Plymouth Township Community. One hundred and ninety volunteers will be recruited to work in Plymouth Township and they will address numerous community needs in a day of service to their fellow citizens.

Mr. Speaker, I ask that my colleagues join me today in recognizing Comcast Cable Corporation for their commitment to volunteerism and community service, not only in Pennsylvania, but throughout the country.

HONORING THE 20TH ANNIVERSARY OF SAN JOAQUIN VALLEY COLLEGE

HON. JIM COSTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. COSTA. Mr. Speaker, I rise today to congratulate San Joaquin Valley College on the celebration of their 20th Anniversary.

San Joaquin Valley College deserves to be commended for its dedication to maintaining a quality educational environment for all of the students on its various campuses. The college has made enormous progress within its twenty-year history. San Joaquin Valley College has advanced from a student body of less than 20 and a staff of only 11 to having over 660 students with a faculty of over 100 employees.

San Joaquin Valley College was founded in 1985. From their humble beginning, the college has always put their students first. They offer degree and certificate programs in business, medical, and technical fields. The college has ever increasing programs to fit the needs of their students. They are also committed to providing the best of both general and vocational education. From 1985 to present, San Joaquin Valley College has graduated over 8,400 students from their Fresno campus alone.

In 1995 San Joaquin Valley College became regionally accredited by the Western Association of Schools and Colleges. The college makes sure to stay involved with the community. The Fresno Campus of San Joaquin Valley College is a strong partner in the local community, receiving numerous awards and recognition from some of the following organizations: The Mayor's Office for the Fresno Dental Assistants, the California State Job Training Coordinating Council for Outstanding Service Provider, the Community Appreciation Award from the United Way of Fresno County, American Red Cross and so many other noteworthy organizations.

For the past 20 years San Joaquin Valley College has created superior learning standards that can only be described as life changing by all of their graduates. They offer small classes, a family-like atmosphere, flexible class schedules, hands-on training, financial aid availability, as well as job placement assistance. San Joaquin Valley College provides quality education in order to produce quality potential employees.

We stand to commend San Joaquin Valley College as an excellent educational provider and applaud their efforts to strengthen our community.

CONGRATULATIONS TO DESOTO TRAIL ELEMENTARY SCHOOL IN TALLAHASSEE, FLORIDA

HON. ALLEN BOYD

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. BOYD. Mr. Speaker, I would like to take this opportunity to congratulate DeSoto Trail Elementary School in Tallahassee, Florida for receiving the Blue Ribbon School award under the No Child Left Behind program. As the home of the Trailblazers they have lived up to their mascots name in earning this award. This is a testament to the quality of education this school provides and to the hard work the administrators, faculty and students have done to be one of only thirteen schools in the entire State to win this award.

Many identify No Child Left Behind with efforts to improve failing schools. However, schools like DeSoto Trail that go above and beyond what is required by the law should not be forgotten. I am extremely proud of not just the students who worked so hard, but also the faculty and administrators whom spent so many hours helping the students become better citizens through education.

DeSoto Trail Elementary is a model of excellence that will serve as an example for every elementary school throughout the United States. This school has proven that through hard work and dedication, academic success is not out of reach for any student.

Therefore, I ask every member to please, join with me in congratulating the children and teachers who have worked so hard to achieve their goal. I would also like to congratulate Principal Janis Johnson and Assistant Principal Hank McGrotha for providing this level of excellence.

The future of this country depends on the success of our education system. As the Representative of Tallahassee, Florida, I am honored and proud to be on the floor today speaking about such students and the parents who support them everyday.

CONSTANCE BAKER MOTLEY'S LIFE AND LEGACY

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. RANGEL. Mr. Speaker, I rise today to commemorate the life and legacy of Judge Constance Baker Motley who died September 21, 2005. Constance Baker Motley had a remarkable career as a public servant, achieving success both as an elected official and as a Federal judge. She made history and contributed greatly to the widening of opportunities for minorities and women. Judge Motley was the first woman and first African-American woman to be appointed to the United States District Court for the Southern District of New York, the largest Federal trial bench in the country; the first African-American woman to be elected to the New York State Senate and the first woman to the Manhattan Borough Presidency.

Constance Baker Motley was born on September 14, 1921 in New Haven, CT, where her father worked as chef for a Yale University fraternity. Her parents were West Indian emigrants who encouraged her to excel in school and to become involved in community activities. Clarence Blakeslee, a wealthy white contractor and philanthropist was so impressed by her that he paid for her college education. She attended Fisk University and graduated from New York University in 1943. In 1946, she received her law degree from Columbia University, and married real estate and insurance broker, Joel Wilson Motley. She also began work as a law clerk with the NAACP Legal Defense and Education Fund. Thurgood Marshall

interviewed her for the position and continued to mentor and support her in the years to come.

As one of the NAACP's principal trial attorneys Motley played a role in all of the major school segregation cases. She helped write the briefs filed in Brown v. Board of Education, 1954, and she personally tried the cases resulting in the admission of James Meredith to the University of Mississippi and of Charlayne Hunter-Gault and Hamilton Holmes to the University of Georgia. In the 1950's and 1960's she argued 10 civil rights cases before the Supreme Court, winning 9. She also represented such luminaries as Dr. Martin Luther King and the Reverend Ralph Abernathy.

In 1964 Motley became the first Black woman elected to the New York State Senate and in 1965 she became the first woman elected to be president of the Borough of Manhattan. In 1966 she was named U.S. District Judge, the first African-American woman to be appointed to the federal bench. Her nomination was approved only after months of fierce political opposition; President Lyndon Johnson had been forced to withdraw his earlier nomination of Motley to the Court of Appeals for the Second Circuit.

Constance Baker Motley is the author of dozens of articles on legal and civil rights issues, including several personal tributes to Thurgood Marshall. She has received honorary doctorates from Spelman College, Howard, Princeton, and Brown Universities, and from many Connecticut institutions, including Yale, Trinity, Albertus Magnus, UCONN, and the University of Hartford. Among her many other awards are the NAACP Medal of Honor and her 1993 election to the National Women's Hall of Fame.

Judge Constance Baker Motley has truly been a trailblazer in the advancement of civil rights for all Americans, and a pioneer in breaking racial and gender barriers within the once homogeneous legal arenas. She is truly not only an African-American "shero," she is an American icon as well. Judge Motley leaves behind her husband of 59 years, Joel Wilson Motley, her son Joel Motley III; three sisters; a brother; and three grandchildren.

I submit to you two obituaries from the September 29th, 2005 edition of the New York Times and from the same edition of the Washington Post.

[From the New York Times, Sept. 29, 2005]

CONSTANCE BAKER MOTLEY, CIVIL RIGHTS TRAILBLAZER, DIES AT 84

(By Douglas Martin)

Constance Baker Motley, a civil rights lawyer who fought nearly every important civil rights case for two decades and then became the first black woman to serve as a federal judge, died yesterday at NYU Downtown Hospital in Manhattan. She was 84.

The cause was congestive heart failure, said Isolde Motley, her daughter-in-law.

Judge Motley was the first black woman to serve in the New York State Senate, as well as the first woman to be Manhattan borough president, a position that guaranteed her a voice in running the entire city under an earlier system of local government called the Board of Estimate.

Judge Motley was at the center of the firestorm that raged through the South in the two decades after World War II, as blacks and their white allies pressed to end the segregation that had gripped the region since Reconstruction. She visited the Rev. Dr. Martin Luther King Jr. in jail, sang freedom songs in churches that had been bombed, and spent a night under armed guard with Medgar Evers, the civil rights leader who was later murdered.

But her métier was in the quieter, painstaking preparation and presentation of lawsuits that paved the way to fuller societal participation by blacks. She dressed elegantly, spoke in a low, lilting voice and, in case after case, earned a reputation as the chief courtroom tactician of the civil rights movement.

Gov. George C. Wallace of Alabama and other staunch segregationists yielded, kicking and screaming, to the verdicts of courts ruling against racial segregation. These huge victories were led by the N.A.A.C.P.'s Legal Defense and Education Fund, led by Thurgood Marshall, for which Judge Motley, Jack Greenberg, Robert Carter and a handful of other underpaid, overworked lawyers labored.

In particular, she directed the legal campaign that resulted in the admission of James H. Meredith to the University of Mississippi in 1962. She argued 10 cases before the United States Supreme Court and won nine of them.

Judge Motley won cases that ended segregation in Memphis restaurants and at whites-only lunch counters in Birmingham, Ala. She fought for King's right to march in Albany, Ga. She played an important role in representing blacks seeking admission to the Universities of Florida, Georgia, Alabama and Mississippi and Clemson College in South Carolina.

She helped write briefs in the landmark school desegregation case Brown v. Board of Education in 1954 and in later elementary-school integration cases.

Judge Motley was a tall, gracious and stately woman whose oft-stated goal was as simple as it was sometimes elusive: dignity for all people. Her personal approach was also dignified. When a reporter wrote that she had demanded some action by the court, she soon corrected him:

"What do you mean 'I demanded the court'? You don't demand, you pray for relief or move for some action."

Charlayne Hunter-Gault, whose admission to the University of Georgia was engineered by Mrs. Motley's legal finesse, described her courtroom cunning.

"Mrs. Motley's style could be deceptive, often challenging a witness to get away with one lie after another without challenging them," she wrote in her book "In My Place," published in 1992. "It was as if she would lull them into an affirmation of their own arrogance, causing them to relax as she appeared to wander aimlessly off into and around left field, until she suddenly threw a curveball with so much skill and power it would knock them off their chair."

As a black woman practicing law in the South, she endured gawking and more than a few physical threats. A local paper in Jackson, Miss., derided her as "the Motley woman."

In 1966, President Lyndon B. Johnson appointed her as a judge on the United States District Court for the Southern District of New York at the urging of Senator Robert F. Kennedy of New York, a Democrat, and with the support of Senator Jacob K. Javits, a Republican. The opposition of Southern senators like James O. Eastland, a Mississippi Democrat, was beaten back, and her appointment was confirmed. She became chief judge of the district in 1982 and senior judge in 1986.

Constance Baker was born on Sept. 14, 1921, in New Haven, the ninth of 12 children. Her parents came from the tiny Caribbean island Nevis at the beginning of the 20th century.

Her father worked as a chef for various Yale University student organizations, including Skull and Bones. She attended local schools in what was then an overwhelmingly white community.

One of her first experiences with discrimination came at 15, when she was turned away from a public beach because she was black.

She read books dealing with black history and became president of the local N.A.A.C.P. youth council. She decided that she wanted to be a lawyer, but her family lacked money to send their many children to college. After high school, she struggled to earn a living as a domestic worker.

When she was 18, she made a speech at local African-American social center that was heard by Clarence W. Blakeslee, a white businessman and philanthropist who sponsored the center. He was impressed and offered to finance her education.

She decided to attend Fisk University, a black college in Nashville, partly because she had never been to the South. In Nashville, she encountered a rigidly segregated society, and brought her parents a poignant souvenir: a sign that read "Colored Only."

After a year and a half at Fisk, she transferred to New York University. After graduation in 1943, she entered Columbia Law School, where she began to work as a volunteer at the N.A.A.C.P.'s Legal Defense and Education Fund, an affiliate of the National Organization for the Advancement of Colored People that Mr. Marshall and his mentor, Charles Houston, had created in 1939.

After she graduated in 1946, she began to work full time for the civil rights group at a salary of $50 a week. She worked first on housing cases, fighting to break the restrictive covenants that barred blacks from white neighborhoods.

Also in 1946, she married Joel Wilson Motley Jr., a New York real estate broker. He survives her, as does their son, Joel III, who lives in Scarborough, N.Y.; three grandchildren; her brother Edmund Baker of Florida; and her sisters Edna Carnegie, Eunice Royster and Marian Green, all of New Haven.

Mr. Marshall had no qualms about sending her into the tensest racial terrain, precisely because she was a woman. She said she believed that was why she was assigned to the Meredith case in 1961.

"Thurgood says that the only people who are safe in the South are the women—white and Negro," she said in an interview with Pictorial Living, the magazine of The New York Journal-American, in 1965. "I don't know how he's got that figured. But, so far, I've never been subjected to any violence."

Mr. Meredith's admission to the University of Mississippi in September 1962 was a major victory for the civil rights movement. Mrs. Motley worked on the case for 18 months before Mr. Meredith's name was even seen in the papers.

She made 22 trips to Mississippi as the case dragged on. Judge Motley once called the day Mr. Meredith accepted his diploma in 1963 the most thrilling in her life.

She said her greatest professional satisfaction came with the reinstatement of 1,100 black children in Birmingham who had been expelled for taking part in street demonstrations in the spring of 1963.

In February 1964, Mrs. Motley's high-level civil rights profile drew her into politics. A Democratic State Senate candidate from the Upper West Side was ruled off the ballot because of an election-law technicality. She accepted the nomination on the condition that it would not interfere with her N.A.A.C.P. work and handily defeated a Republican to become the first black woman elected to the State Senate. She was reelected that November.

She remained in the job until February 1965, when she was chosen by unanimous vote of the City Council to fill a one-year vacancy

as Manhattan borough president. In citywide elections nine months later, she was re-elected to a full four-year term with the endorsement of the Democratic, Republican and Liberal Parties.

As borough president, she drew up a seven-point program for the revitalization of Harlem and East Harlem, securing $700,000 to plan for those and other underprivileged areas of the city.

After becoming a federal judge in 1966, Judge Motley ruled in many cases, but her decisions often reflected her past. She decided on behalf of welfare recipients, low-income Medicaid patients and a prisoner who claimed to have been unconstitutionally punished by 372 days of solitary confinement, whom she awarded damages.

She continued to try cases after she took senior status. Her hope as a judge was that she would change the world for the better, she said.

''The work I'm doing now will affect people's lives intimately,'' she said in an interview with The New York Times in 1977, ''it may even change them.''

[From the Washington Post, Sept. 29, 2005]

CIVIL RIGHTS LAWYER BAKER MOTLEY DIES

(By LARRY NEUMEISTER)

NEW YORK.—When she was 15, Constance Baker Motley was turned away from a public beach because she was black. It was only then—even though her mother was active in the NAACP—that the teenager really became interested in civil rights.

She went to law school and found herself fighting racism in landmark segregation cases including Brown v. Board of Education, the Central High School case in Arkansas and the case that let James Meredith enroll at the University of Mississippi.

Motley also broke barriers herself: She was the first black woman appointed to the federal bench, as well the first one elected to the New York state Senate.

Motley, who would have celebrated her 40th anniversary on the bench next year, died Wednesday of congestive heart failure at NYU Downtown Hospital, said her son, Joel Motley III. She was 84.

''She is a person of a kind and stature the likes of which they're not making anymore,'' said Chief Judge Michael Mukasey in U.S. District Court in Manhattan, where Motley served.

From 1961 to 1964, Motley won nine of 10 civil rights cases she argued before the Supreme Court.

''Judge Motley had the strength of a self-made star,'' federal Judge Kimba Wood said. ''As she grew, she was unfailingly optimistic and positive—she never let herself be diverted from her goal of achieving civil rights, even though, as she developed as a lawyer, she faced almost constant condescension from our profession due to her being an African-American woman.''

Motley, who spent two decades with the NAACP's Legal Defense and Educational Fund, started out there in 1945 as a law clerk to Thurgood Marshall, then its chief counsel and later a Supreme Court justice. In 1950, she prepared the draft complaint for what would become Brown v. Board of Education.

In her autobiography, ''Equal Justice Under Law,'' Motley said defeat never entered her mind. ''We all believed that our time had come and that we had to go forward.''

The Supreme Court ruled in her and her colleagues' favor in 1954 in a decision credited with toppling public school segregation in America while touching off resistance across the country and leading to some of the racial clashes of the 1960s.

In the early 1960s, she personally argued the Meredith case as well as the suit that resulted in the enrollment of two black students at the University of Georgia.

''Mrs. Motley's style could be deceptive, often allowing a witness to get away with one lie after another without challenging him,'' one of the students, journalist Charlayne Hunter-Gault, wrote in her 1992 book, ''In My Place.'' But she would ''suddenly threw a curve ball with so much skill and power that she would knock them off their chair.''

Motley also argued the 1957 case in Little Rock, Ark., that led President Eisenhower to call in federal troops to protect nine black students at Central High.

Also in the early 1960s, she successfully argued for 1,000 school children to be reinstated in Birmingham, Ala., after the local school board expelled them for demonstrating. She represented ''Freedom Riders'' who rode buses to test the Supreme Court's 1960 ruling prohibiting segregation in interstate transportation. During this time, she represented the Rev. Martin Luther King Jr. as well, defending his right to march in Birmingham and Albany, Ga.

Motley and the Legal Defense and Education Fund, committed to a careful strategy of dismantling segregation through the courts, were amazed by the emergence of more militant tactics such as lunch-counter sit-ins, but she came to believe that litigation was not the only road to equality.

Recalling a 1963 visit to King in jail, she remarked, ''It was then I realized that we did indeed have a new civil rights leader—a man willing to die for our freedom.''

Motley was born in New Haven, Conn., the ninth of 12 children. Her mother, Rachel Baker, was a founder of the New Haven chapter of the National Association for the Advancement of Colored People. Her father, Willoughby Alva Baker, worked as a chef for student organizations at Yale University.

It was the beach incident that solidified the course her life would take.

Though her parents could not afford to send her to college, a local philanthropist, Clarence W. Blakeslee, offered to pay for her education after hearing her speak at a community meeting.

Motley earned a degree in economics in 1943 from New York University, and three years later, got her law degree from Columbia Law School.

In the late 1950s, Motley took an interest in politics and by 1964 had left the NAACP to become the first black woman to serve in the New York Senate.

In 1965, she became the first woman president of the borough of Manhattan, where she worked to promote integration in public schools.

The following year, President Johnson nominated her to the federal bench in Manhattan. She was confirmed nine months later, though her appointment was opposed by conservative federal judges and Southern politicians.

Over the next four decades, Motley handled a number of civil rights cases, including her decision in 1978 allowing a female reporter to be admitted to the New York Yankees' locker room.

Motley is survived by her husband and son, three sisters and a brother.

HONORING THE 10TH ANNIVERSARY OF THE LOWER MERION CONSERVANCY

HON. JIM GERLACH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. GERLACH. Mr. Speaker, I rise today to honor the Lower Merion Conservancy during its 10th anniversary celebration. The Lower Merion Conservancy was formed in 1995 when the Lower Merion-Narberth Watershed Association merged with the Lower Merion Preservation Trust.

The Conservancy focuses on education, conservation and the preservation of historic resources and open space in Lower Merion Township, Montgomery County, PA. The Conservancy actively engages members of the community to participate in conservation through programs such as Stream Watch, in which individuals adopt a stream to monitor, and Bird Watch and Butterfly Watch, in which people identify and number species near their homes.

Additionally, the Conservancy has an easement program to protect Township properties and has forest restoration and native plant gardening programs. Folks from the Conservancy partner with school groups for educational programs with children, the highlight of which is the Children's Earth Day Forest. These projects emphasize to our young people the responsibility we all share to protect our natural resources.

I want to especially recognize the Conservancy's Executive Director, Mike Weilbacher. His leadership and efforts in educating the public about the environment and conservation have earned him awards from the Pennsylvania Resources Council, the Pennsylvania Wildlife Association and the Pennsylvania Alliance for Environmental Education.

I am proud to represent an organization that has spent so many years in service of our environment and our community. I wish to extend my appreciation, and that of all those who have been helped by members of the Conservancy. I encourage my colleagues to join me in saluting the Lower Merion Conservancy on reaching this milestone.

SUPPORTING THE GOALS AND IDEALS OF DOMESTIC VIOLENCE AWARENESS MONTH

SPEECH OF

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 2005

Mr. EMANUEL. Mr. Speaker, I rise today in strong support of H. Con. Res. 209, Supporting the goals and ideals of Domestic Violence Awareness Month. Domestic violence continues to have a devastating effect on American families. It is important for Congress to take a leading role in raising awareness about this issue.

I am proud to have played a leading role in creating the 1994 Violence Against Women Act during my time in the White House. Since the passage of this important act, the rate of domestic violence in the United States has diminished. However, there is still work to be done in breaking the cycle of violence and addressing the root causes of domestic violence.

Domestic violence affects women, men, and children of all racial, social, religious, ethnic and economic backgrounds. Between 1998 and 2002, family violence accounted for 11 percent of all reported violence in the nation. 22 percent of murders in 2002 were committed by family members of the victims, and approximately 15 percent of violent crime convictions were for an attack on a family member.

Congress must support measures to stop domestic violence before it begins through education, transitional housing assistance and counseling programs. We must also make it a priority to reauthorize the Violence Against Women Act and ensure that this important legislation receives sufficient funding.

Mr. Speaker, I thank the gentleman from Texas for introducing this important resolution, and I urge my colleagues to join me in support of establishing October as Domestic Violence Awareness Month.

CONGRATULATING THE AGGELER FAMILY

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. LEVIN. Mr. Speaker, I rise to congratulate the Aggeler Family, the proud recipients of the 2005 Donna Greco Issa Family of the Year Award from the March of Dimes.

Following in the tradition of those families who are past recipients of this distinguished award, the Aggeler Family has a strong and passionate enthusiasm for family and devotion to community.

Mr. and Mrs. Aggeler moved from Missouri to Michigan in 1944. Soon after, they founded a lumber company, John's Lumber, in Mount Clemens. The business has been in the family for over 58 years.

John Aggeler believed if you treat people well they would continue to come back. This ideology is the foundation for the company's commitment to its community, family, and employees. Currently, the family's third generation is working for the company and continues to reside in Macomb County.

The Aggeler children have continued his legacy of commitment and outstanding service. The thread of service to others runs through their family.

Michael Aggeler is one of many Aggeler children who continues to work for the family business and is extremely active in the community. For 31 years, Michael has been a member of St Mary's S.M.A.S.H. outing. He also served for 6 years as a board member of the Michigan Lumber and Building Materials Association and is a member of the Mount Clemens Lions Club.

Mr. Speaker, I ask my colleagues to join me recognizing the Aggeler Family for their commitment to their family and employees, along with the extraordinary legacy of the service to their community. They are well deserving of the Donna Greco Issa Family of the Year Award.

IN HONOR AND REMEMBRANCE OF JESS A. BELL

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in honor and remembrance of Jess A. Bell, dedicated family man, community activist, business leader, U.S. Veteran, and friend and mentor to many.

Mr. Bell grew up in Cleveland, attended Baldwin Wallace College and served our country as a paratrooper during WWII and the Korean War. In 1959, he became president of the Lakewood-based Bonne Bell Inc., a company his father had started thirty-two years earlier.

Mr. Bell's unwavering integrity, concern for others, boundless energy and expansive heart, reflected within every facet of his life—from his commitment to his family, to his concern for his employees, to his social activism on behalf of charitable causes. He blazed a trail of opportunity for all when he became one of the only business leaders in America to initiate a program to hire senior citizens, some of them in their nineties. Many companies have since followed in his path, realizing the significant contributions offered by older Americans.

Always focused on the health and well-being of his employees, Mr. Bell, a marathon runner himself, provided on-site exercise facilities and offered financial incentives for employees who took personal responsibility for their physical health. In 1970, he founded the American Heart Association's Cleveland Heart-A-Thon. He also led the effort to establish a tennis tournament between the United States and Australia that served to promote the development of girls' junior tennis programs.

Mr. Speaker and colleagues, please join me in honor and remembrance of Jess A. Bell. Please also join me as I offer my deep condolences to his wife of 51 years, Juliana; his children, Julie, Buddy, James and Joe; his 14 grandchildren; his sister Bonne, and his extended family and many friends. Though he will be greatly missed, the joyous legacy of his life, framed by kindness, energy and an unwavering focus on lifting the lives of others, will live on forever within the hearts of his family and friends, and within the spirit of our entire community.

A TRIBUTE TO ROBERT WASH

HON. JIM COSTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. COSTA. Mr. Speaker, I rise today to honor the memory of Robert M. Wash of Fresno, California. He is survived by his two sons John and Thomas, and daughter Lynn.

Robert Wash was a respected member of our community and his memory will be forever cherished. He was born to Henry and Effie Wash on May 27, 1908 and grew up in Fresno County. His family instilled in him the qualities of character with which he touched so many lives.

Upon graduation from Caruthers High School, Mr. Wash attended the University of California, Berkeley; where he graduated with a degree in Economics. Ever the dedicated student he continued his education at Boalt Hall and passed the California State Bar Exam. He pursued his passion for law by becoming a prosecuting attorney in the District Attorney's office for several years. In 1950, he was appointed Fresno County's first County Counsel. He retired from the position in 1978, after serving as County Counsel for 28 years. In 2001, Robert Wash received the highly prestigious Bernie E. Witkins Lifetime Achievement award from the Fresno County Bar Association.

Mr. Wash was not only a dedicated employee he was also an active community participant. He was a member of the Fresno Rotary Club, Fowler Friday Evening Club, Garden of the Sun Corral of the Westerners International and the San Joaquin Civil War Roundtable.

Robert Wash had a passion for history that he expressed through his amazing writing. His vast knowledge of the area's history and his love of the subject was projected through his writings. Many of the historical markers in Fresno County are inscribed with his words. He was the President of the Fresno County Historical Society and played the role of Confederate President Jefferson Davis at the Civil War Reenactment ceremonies on several occasions.

Aside from being an accomplished writer and making incredible professional achievements, Robert Wash was a beloved family man. He is described as being a good man who took care of his family.

Robert Wash was his Family's hero and will continue to be appreciated by his community.

CONGRATULATIONS TO DEERLAKE MIDDLE SCHOOL IN TALLAHASSEE, FLORIDA

HON. ALLEN BOYD

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. BOYD. Mr. Speaker, I would like to take this opportunity to congratulate Deerlake Middle School, home of the Bucks, in Tallahassee, Florida for receiving the Blue Ribbon School award under the No Child Left Behind program. This award is certainly a testament to the quality of education this school provides and to the hard work the administrators, faculty and students have done to be one of only thirteen schools in the entire state to win this award.

Many identify No Child Left Behind with efforts to improve failing schools. However, schools like Deerlake that go above and beyond what is required by the law should not be forgotten. I am extremely proud of not just the students who worked so hard, but also the faculty and administrators whom spent so many hours helping the students become better citizens through education.

Deerlake Middle School is a model of excellence that will serve as an example to every Middle school throughout the United States. This school has proven that through hard work and dedication, academic success is not out of reach for any student.

Therefore, I ask every member to please, join with me in congratulating the children and teachers of Deerlake Middle School who have worked so hard to achieve their goal. I would also like to congratulate Principal Jackie Pons and Assistant Principals Gwendolyn Lynn Williams and Shane Syfrett for providing this level of excellence.

The future of this country depends on the success of our education system. As the Representative of Tallahassee Florida, I am honored and proud to be on the floor today speaking about such students and the parents who support them everyday.

PRIME MINISTER P.J. PATTERSON'S REMARKS AT CONGRESSIONAL BLACK CAUCUS AWARDS DINNER

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. RANGEL. Mr. Speaker, I rise today to acknowledge the eloquent remarks made by the Honorable P.J. Patterson, Prime Minister of Jamaica as he accepted the Charles Diggs Award for International Service from the Congressional Black Caucus as part of our Annual Legislative Conference Awards Dinner on Saturday September 24, 2005. His acceptance speech reached beyond words of gratitude, to encompass a stirring statement of the basis for the commonality of people throughout the African Diaspora. Prime Minister Patterson inspired us with his words to promote enlightenment, encouragement, unity and brotherhood.

In his address he reminded us of the shared histories and experiences of Blacks in the Americas and across the globe. He showed how those who survived the Middle Passage were indeed part of a larger family of shared experience. Prime Minister Patterson illustrated the common experiences of poverty, neglect and misrepresentation that affected the social status of Africa and its descendants of the Diaspora alike. His message showed that the neglectful actions of federal, state, and local governments following Hurricane Katrina were a microcosm of the global experience of blacks everywhere in the world. He gave us hope that through this shared history, we have a common foundation from which we as one people regardless of nation, or geographic location can stand on to fight injustice around the world, especially since those of African descent suffer most from the injustices.

Mr. Patterson also reminded and encouraged us as public officials and as citizens of the world to continue the fight for what we vowed to do, fight for justice on the local, national and international levels. He reminded us in the African American community that we are not alone in our struggle for justice and equality. We are part of a global struggle to bring empowerment to those who are poor and oppressed around the world and that we must take courage from our faith that what is right will prevail. We all have to engage all our energies and intellects in the struggle to build the national and global framework where marginalized groups, industrialized countries, and developing nations alike have an equal voice in the determination of how best we protect and share the resources of not only our country and others alike, but our planet as well.

Prime Minister P.J. Patterson and his words of hope and optimism were a breath of fresh air to his audience during such despondent and confusing times. He gives direction where there is seemingly none, and he makes sense out of a seemingly senseless world. Thank you, Mr. Patterson for your words of encouragement and hope, and for exhibiting much courage and strength during a time when the world needs leaders with such characteristics. The citizens of Jamaica are truly blessed to have a leader like you, to guide them successfully into the future and we are as a people are fortunate to have you as part of our African family.

I submit the transcript of Prime Minister Patterson's acceptance speech given on Saturday September 24, 2005 to the Congressional Black Caucus' Annual Legislative Conference Awards Dinner to the CONGRESSIONAL RECORD.

Over a period of two centuries, some fifteen million young Africans were crowded into slave ships, propelled by the winds that sweep the Atlantic at this time of year.

Family victims of the pernicious system of slavery were separated forever according to the dictates of the plantocracy in the Caribbean, North, Central and South America.

So, no matter in what country we now reside, we are indeed one big family, one people. We are all descendants of those who survived the Middle Passage.

Once again, I express the deepest sympathy of the government and people of Jamaica to everyone who lost a relative or friend and to all who suffered the traumatic experiences and material losses of Hurricane Katrina.

It is appropriate to underscore our special empathy with our kith and kin, who by all accounts, suffered the greatest loss from these catastrophes.

I cannot overlook the disdain manifest to the plight of the poor in Louisiana and the weakness in the early response to the devastation, so arrogantly described as a Third World situation.

No one can dispute the fact that the African American influence on the culture and vibrancy of New Orleans is the most pervasive, has giving heart and soul to this unique city.

HONOURED

Tonight, I am honoured to receive this high and special award of the Congressional Black Caucus Foundation.

I do so with a sense of humility, yet gratified that my efforts have received the recognition of such a distinguished organization.

I do so on behalf of my colleagues who serve with me in the Caribbean and, as incumbent Chairman of the Group of 77 and China, a Group which embraces every sovereign nation on the Mother Continent of Africa.

Many decades ago, Marcus Mosiah Garvey implored us to redress the inequities of our history and change irreversibly the cruel imbalance that our people have suffered in the economic arena and social development, at both the global and domestic levels.

We are yet to complete that mandate.

The uphill climb we face, likening us once to children of Sisyphus, must not deter us.

To quote Maya Angelou: ''History, despite its wrenching pain, cannot be unlived, but if faced with courage, need not be lived again.''

BUILDING A JUST WORLD

It has been my passionate resolve throughout my public life to engage all my energies and my intellect in the struggle to build the global framework where industrialized countries and developing nations alike have an equal voice in the determination of how best we protect and share the resources of the only planet where human life exists;

That we recognize there can be no lasting peace so long as a few seek to perpetuate political and social dominance to the detriment of those who have been marginalized far too long.

Injustice anywhere threatens justice everywhere.

Why should we continue to spend trillions of dollars and devote so much of our professional and technical skills to making armaments and weapons of mass destruction when people are dying of hunger, when lives are cut short by malaria, tuberculosis, HIV/AIDS and infectious diseases?

Wherever we operate, in the political sphere, no matter what continent or island, let us recognize that the prevention of genocide, the successful fight against terrorism, the preservation of our global environment are imperatives.

ONE HUMAN RACE

I see my brothers and sisters in the CBC as stalwart partners in the struggle to promote economic self-reliance, democratic governance and social upliftment to fulfill the needs of our citizens.

Together we must continue to strive for unity of purpose and action among us. We seek together to fashion a single World which we can inhabit and where, irrespective of gender, age, religious creed, or colour, we can all live in harmony together, because we all belong to the human race.

I congratulate you for all you are doing to nurture our confidence in ourselves. I congratulate the Foundation for this evening's splendid and unforgettable ceremony.

In closing, let me quote from Genesis:

''Behold they are one people, and they all have the same language. And this is what they began to do, and now nothing which they purpose to do will be impossible for them. [Genesis 11:6].''

May the Almighty continue to guide and bless us all.

SUPPORTING GOLD STAR MOTHERS DAY

SPEECH OF

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 21, 2005

Mr. EMANUEL. Mr. Speaker, I rise today in strong support of H.J. Res. 61, Supporting the Goals and Ideals of Gold Star Mothers Day. I am proud to be a cosponsor of this important resolution, which honors the mothers of those who have made the ultimate sacrifice for our nation.

We often invoke the sacrifices of our nation's fallen in general. Seldom do we take the time to thank them and their families individually. In June and July of this year, I joined 21 other members from both sides of the aisle to read the names of each of our fallen on the house floor. I am pleased to have this opportunity to recognize an thank the mothers of these individual heroes.

President Franklin D. Roosevelt once wrote to the mother of a fallen serviceman, ''He stands in the unbroken line of Patriots who have dared to die that freedom might live, and grow and increase its blessings. Freedom lives, and through it he lives, in a way that humbles the undertakings of most men.''

Organizations such as American Gold Star Mothers keep the memory of these heroes alive, as they help fellow mothers and family members of the fallen work through the grief of losing a loved one. They are also actively involved in their communities, visiting VA hospitals, helping veterans with claims to the Veterans Administration and volunteering at patriotic and memorial services throughout the year.

Mr. Speaker, I would like to echo the words of President Abraham Lincoln, who wrote to the mother of five fallen soldiers in the Civil War: ''I pray that our heavenly Father may assuage the anguish of your bereavement, and leave you only the cherished memory of the

loved and lost, and the solemn pride that must be yours to have laid so costly a sacrifice upon the alter of freedom.''

We owe gold star mothers and their families a debt that can never be fully repaid. I hope all Americans will take this opportunity to recognize and thank America's Gold Star Mothers.

CONGRATULATING COMMISSIONER NANCY WHITE

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. LEVIN. Mr. Speaker, I rise to congratulate Commissioner Nancy White, who is the recipient of the 2005 Alexander Macomb Woman of the Year Award from the March of Dimes.

Nancy White has dedicated her life to educating and improving her community. After Mrs. White received her Bachelor's degree from Michigan State University and her Master's degree from Wayne State University, she began her 22-year career in the Fraser Public School District. She served as a teacher, counselor, and coach.

In 1992, Mrs. White was elected by the people of Fraser and southern Clinton Township as their representative on the Macomb County Board of Commissioners. Since then, she has dedicated the last seven years to the County Board. Her strong leadership was recognized by her fellow board members and she was elected in January 2005 to serve a two-year term as chair of the Macomb County Board of Commissioners.

Mrs. White is committed to efficient and responsive County government. She lives out this commitment by creating a Strategic Visioning Task Force, a forum for Mayors throughout the County and endeavoring to work on a bipartisan basis. She was the Co-Chair of a County-wide effort to defend the County's military installations in the recent BRAC process. She has traveled to the Middle East on a trade mission with other government and business leaders from Southeastern Michigan.

Mrs. White's excellent leadership skills are not only utilized on the Macomb County Board of Commissioners. She served as chair of the Macomb County Community Mental Health Board and co-chair of the Clinton Township American Red Cross Blood Drive.

In 2002, the community acknowledged Mrs. White's leadership and commitment. She was awarded The Woman of Distinction Award from the Girl Scouts of America for her many outstanding contributions as a mentor and community leader.

Mr. Speaker, I have been honored to work in collaboration with Mrs. White over a number of years and to see first hand her commitment and devotion to improving communities throughout Macomb County. I ask my colleagues to join me in congratulating Commissioner Nancy M. White as she receives this distinguished award.

ANNIVERSARY OF THE INDEPENDENCE OF THE REPUBLIC OF CYPRUS

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mrs. MALONEY. Mr. Speaker, I rise today to honor the 45th Anniversary of the Republic of Cyprus. It was on October 1, 1960, that Cyprus became an independent republic after decades of British colonial rule.

I am very fortunate and privileged to represent Astoria, Queens—one of the largest and most vibrant communities of Greek and Cypriot Americans in this country. Among my greatest pleasures as a Member of Congress are participating in the life of this community and the wonderful and vital Cypriot friends that I have come to know.

As a full-fledged member of the European Union, Cyprus is playing a vital role in European affairs while also strengthening relations with the United States. On July 25, the United States and the Republic of Cyprus signed a reciprocal Proliferation Security Initiative (PSI) Ship Boarding Agreement, which is aimed at preventing the proliferation of weapons of mass destruction. Cyprus was the first EU member to sign this agreement. Earlier this month Cyprus became a signatory to the International Convention for the Suppression of Acts of Nuclear Terrorism. Finally, in the wake of Hurricane Katrina, Cyprus offered both its condolences and assistance to the victims of this horrible disaster.

I am saddened that the commemoration of Cyprus' Independence Day this year, as in the past, is clouded by the fact that Cyprus continues to be illegally occupied by the Turkish military forces, in violation of U.N. Security Council resolutions. On July 20, 1974, Turkey invaded Cyprus, and to this day continues to maintain an estimated 35,000 heavily armed troops. However, I remain hopeful that an end to this division will be achieved.

Cyprus and the United States have a great deal in common. We share a deep and abiding commitment to democracy, human rights, free markets, and the ideal and practice of equal justice under the law. Despite the hardships and trauma caused by the ongoing Turkish occupation, Cyprus has registered remarkable economic growth, and the people living in the Government-controlled areas enjoy one of the world's highest standards of living. Sadly, the people living in the occupied area continue to be mired in poverty.

I am encouraged that since the Turkish occupation regime partially lifted restrictions on freedom of movement across the artificial line of division created by Turkey's military occupation, hundreds of thousands of Greek Cypriots and Turkish Cypriots have crossed the U.N. ceasefire line to visit their homes and properties or areas of their own country that were inaccessible to them for nearly 30 years. The peaceful and cooperative spirit in the person-to-person, family-to-family interactions between Greek Cypriots and Turkish Cypriots bodes well for the successful reunification of Cyprus.

In the times we are facing, it is clear that divisions among people create harmful, destructive environments. We must find a peaceful solution to the Cyprus problem. The relationship between Cyprus and the United States is strong and enduring, and we stand together celebrating democracy and freedom.

THE SOCIAL SECURITY COLA PROTECTION ACT

HON. STEPHANIE HERSETH

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Ms. HERSETH. Mr. Speaker, before I was elected to the House of Representatives, I made a promise to thousands of seniors in South Dakota that, if they would send me to Washington, I would fight for them, stand by them, and make their voice heard. To help keep that promise by protecting the retirement income of nearly 100,000 South Dakotans from rising health care costs, the ''Social Security COLA Protection Act'' was the first piece of legislation I introduced upon my arrival.

Today, I am reintroducing the ''Social Security COLA Protection Act'' because the situation facing seniors in South Dakota and around the country is just as dire today as it was a year ago.

For retirees who depend on Social Security benefits to live, the only defense against increasing prices for food, clothing and energy is an annual cost-of-living adjustment, or COLA. However, rising Medicare premiums are diminishing the purchasing power of this yearly increase in benefits.

Over the last 5 years, monthly Medicare Part B premiums have nearly doubled. On September 16th, the Centers for Medicare and Medicaid Services announced that Medicare beneficiaries will pay an additional 13 percent out of their Social Security checks in 2006. This marks the third consecutive rise of more than 10 percent and exceeds the 12 percent increase Medicare's trustees predicted in March. Every dollar that goes toward rising Medicare premiums is one less South Dakota's seniors can use to pay for groceries or utility bills.

We're not wealthy in South Dakota. Retirees in South Dakota clip coupons. They put off buying the things they need. They live modestly because that is what they must do to get by. It is no exaggeration to say that retirees in South Dakota need every penny of their COLA. Not just so they can maintain a basic standard of living—but so they can live with dignity.

My legislation protects retirees by ensuring that no more than 25 percent of their COLA can be absorbed by the increase in Medicare premiums. Next year, it would protect 100,000 South Dakotans who otherwise would see their scarce dollars taken from food, clothing and other essential purchases. For those who depend on Social Security to pay their bills, this legislation will help them save enough to buy new clothes, extra medicine or just a plane ticket to visit the grandchildren.

Last Congress, my legislation had the support of 116 members of the House and of prominent advocacy groups for seniors such as the National Committee to Preserve Social Security and Medicare, the Alliance for Retired Americans and Families USA. I hope that Congress will take up and pass this legislation quickly, because the need for it is real and immediate.

This fall, just as Medicare premiums go up, temperatures in South Dakota will be going down. Seniors will sit at their kitchen tables, reading through the bills, and they may wonder yet again how they are going to make it through the month. We owe it to them to do better. I will work to see that we will.

FREEDOM FOR VIRGILIO MARANTA GUELMES

HON. LINCOLN DIAZ-BALART

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I rise to speak about Virgilio Maranta Guelmes, a political prisoner in totalitarian Cuba.

Mr. Maranta Guelmes is a pro-democracy activist and a delegate of the 24th of February Movement. The movement is named for both the commencement of the glorious Cuban War of Independence in 1895, and the day in 1996 when two civilian aircraft carrying four members of the Brothers to the Rescue movement were shot down over international waters by the Cuban dictatorship's fighter jets. The 24th of February Movement desires and struggles for freedom in Cuba.

Because of his belief in freedom and democracy, Mr. Maranta Guelmes has been a constant target of the tyrant's machinery of repression. According to Amnesty International, he was arrested and imprisoned in the totalitarian gulag on December 6, 2002. On May 19, 2002, he was again detained and interrogated by the dictatorship. In that interrogation, he was told to abandon his activities with the 24th of February Movement.

Mr. Maranta Guelmes, knowing full well the heinous repression that awaited him if he continued to advocate for freedom for the people of Cuba, never wavered in his convictions. Unfortunately, on May 18, 2004, in a sham trial, Mr. Maranta Guelmes was sentenced to 3 years in the totalitarian gulag.

Let me be very clear, Mr. Maranta Guelmes is locked in a dungeon because he desires freedom for Cuba. The U.S. State Department describes the conditions in the gulag as, ''harsh and life threatening.'' The State Department also reports that police and prison officials beat, neglect, isolate, and deny medical treatment to detainees and prisoners.

Mr. Speaker, it is unconscionable that anyone, anywhere, is imprisoned in sub-human gulags simply for their belief in truth, freedom and democracy. At the dawn of the 21st century, mankind must no longer tolerate prisoners of conscience in any form, in any place, in any country. My colleagues, we must cry out for the immediate and unconditional release of Virgilio Maranta Guelmes and all prisoners of conscience in the totalitarian Cuba.

TRIBUTE TO DR. PAUL PEPE

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I would like to talk today about a remarkable, courageous man who has dedicated himself to improving the lives of those around him. Dr. Paul Pepe is a fine member of my home community of Dallas, Texas, and I am proud to announce that he has been recognized for his contribution in emergency medical services from the American College Emergency Physicians. The award, presented by U.S. Surgeon General Richard Carmona in Washington, D.C. on Monday, September 26, 2005, recognized Dr. Pepe for his achievements during a 30 year career that included education and service to numerous city, state and federal agencies.

Dr. Pepe, a protégé of Drs. Leonard Cobb and Michael Copass from the University of Washington in Seattle, may be best known as one of the lead authors of the initial 1991 American Heart Association publications.

Dr. Pepe co-authored a comprehensive Early Childhood Center curriculum for K through 12 school children, and he championed statewide training of middle school students using high school seniors as instructors in both CPR and automated external defibrillator use. In addition, he helped to forge the exact language and subsequent passage of one of the most liberal Good Samaritan Laws ever enacted in any state regarding AED use by bystanders. Translating all of these ambitious CPR initiatives into major media events—and ultimately thousands of lives saved—Dr. Pepe has been labeled in some educational circles as a ''Mentor to Millions.''

Dr. Pepe has been a longstanding member of the National Advanced Cardiac Life Support and Basic Life Support committees of the American Heart Association. He has also served on national ad hoc committees for various AHA activities including its upcoming National Mass CPR Training Day initiative.

In addition to his AHA duties, Dr. Pepe also serves as the Emergency Medicine and Trauma Consultant to such diverse entities as the White House Medical Unit, ABC News and the National Basketball Association Trainers. Most recently, he trained the U.S. Surgeon General, Dr. David Satcher, and several dozen of his highest ranking senior staff members in CPR and AED use.

A ubiquitous and popular world-wide lecturer and author of hundreds of published scientific papers and abstracts, Dr. Pepe has been featured routinely in many network and prime-time broadcasts. He has won multiple health policy, community service, academic and professional society awards, both here and abroad, and he has provided consultation for multiple foreign governments regarding the coordination of emergency health services.

Dr. Pepe is a dedicated community servant, activist, and leader. He is a tremendous asset to Dallas, and through his tireless work, my home town has become a better place to live and a safer place to grow up. I am proud to join his family, his colleagues and the North Texas community in congratulating Dr. Pepe on a job well done.

LANCE CORPORAL JOSHUA BUTLER

HON. BILL SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. SHUSTER. Mr. Speaker, I rise today to recognize and distinguish one of America's finest—United States Marine Lance Corporal Joshua Butler of Altoona, PA. Butler, who dreamed of being a U.S. Marine since he was four years old, protected hundreds of his fellow comrades from suicide bombers mounting an attack with trucks, explosives and no regard for human life.

Butler was stationed in Iraq along the Syrian border, and while guarding the base's perimeter from a lookout tower his post was attacked. Butler sprayed the first suicide bomber with 20 or 30 rounds causing him to veer off at the last moment to miss his target. The truck, filled with explosives and manned by a suicide-mission insurgent, crashed through the improvised barrier the Marines had built up along the edge of the base. After being knocked down by the blast, Lance Corporal Butler remained focused, alert and ready. Through the smoke of the blast, he saw a red, suicide-driven fire engine coming toward the base. Butler fired 100 rounds onto the vehicle. After the truck was hit by a grenade, launched by Pfc. Charles Young, its explosives were detonated outside of the base but within 50 yards of Butler. Debris from this blast sprayed the length of 4 football fields and knocked down soldiers as far as 200 yards away. But no Marines were seriously hurt, including Butler.

Lance Corporal Butler's actions saved the lives of hundreds of his fellow Marines and marked a significant victory against the insurgents in Iraq. The suicide bombers mission was thwarted by Butler's courageous and timely reaction. An estimated 21 insurgents were killed that day while 15 were reported wounded.

Lance Corporal Butler—You are a U.S. Marine and a hero, and across the country Americans are proud of your leadership. Thank you for serving when your nation called.

A TRIBUTE TO THE LIFE OF APRIL RENETTA LOVE

HON. MIKE ROSS

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. ROSS. Mr. Speaker, I rise today to honor the life of April Renetta Love of Hope, Arkansas. April was born on May 1, 1985 in Texarkana and passed away this month in Fayetteville, Arkansas. I wish to recognize her life and achievements.

A 2003 honors graduate of Hope High School, April was a junior at the University of Arkansas and was majoring in Political Science, Communications, and African-American Studies.

April was extremely active in a wide array of campus organizations at the University of Arkansas. She was a member of Alpha Kappa Alpha sorority, the Order of the Eastern Star Youth Fraternity and Young Democrats. Her interest in politics extended beyond campus and she spent the summer of 2005 interning for the Congressional Black Caucus in the nation's capital, when I had the privilege of meeting this bright and talented young woman. April was also an accomplished musician and served as the church pianist for seven years.

April will forever be remembered for her contagious smile, her leadership and for her commitment to furthering her education. My

deepest condolences go out to her parents, Ira and Magic Love; her sisters, Bridget and Crystal; her brother, Stephen; and her grandparents. April's legacy and spirit will live on in those whose lives she touched.

REMARKS ON RYAN WHITE CARE ACT REAUTHORIZATION

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. ENGEL. Mr. Speaker, tomorrow, Congress will stand by and allow the Ryan White CARE Act to expire. While this does not signify the end to the program, it does underscore our responsibility to conduct hearings and vote on its soon overdue reauthorization. We must act swiftly to ensure that this landmark program, which provides lifesaving treatment to more than half a million persons living with HIV/AIDS each year, be strengthened to meet the changing needs of their care.

New York City has always had a special respect for the opportunities the Ryan White CARE Act affords the city in serving the needs of our HIV/AIDS population. New York City comprises three percent of the nation's population, but more than 16 percent of the nation's AIDS cases. As of December 31, 2003, there were 142,085 cumulative AIDS cases in NYC, and 88,479 City residents diagnosed as Persons Living With HIV/AIDS. Although Ryan White CARE Act is widely considered the payer of last resort for people with HIV/AIDS, it fills much of the void in providing treatment and support services for those who either are uninsured or underinsured, without the necessary resources to access desperately needed care.

We must do better by CARE Act funding. This program has been virtually flat funded for years, and its AIDS Drug Assistance Programs (ADAP) only received a ten million dollar increase in this year's House Labor-HHS bill. Many very low-income people continue to be shut-out from ADAP programs due to states' varying income eligibility levels, which can range from 125 percent to 500 percent of the Federal Poverty Level. Without early, aggressive treatment people living with HIV/AIDS can experience rapid and often irreversible disease progression. Additionally, if care is interrupted drug resistance can develop, which compromises their ability to properly control their health. Now, more than ever, the President should release emergency ADAP funding to help host states care for the estimated 8,000 victims of Hurricane Katrina, who have been displaced from their homes and networks of care.

The President's Principles for Ryan White CARE Act Authorization include some troubling provisions which could have devastating results for communities' ability to provide consistent, appropriate care for persons living with HIV/AIDs. The proposed Severity of Need for Core Services Index will change funding formulas to take into account the availability of other resources, like state and local funding streams. This is bad public policy as it punishes states that have taken responsibility for their local HIV care and creates a powerful disincentive for other states to prioritize funding for HIV funding in future years, if they think the federal government will just cover the gap. No state spends more than New York does to care for its residents with HIV and AIDS—over $3 billion last year. New York has always viewed this funding as a partnership between the state, cities and federal government and should not lose out on future federal funding for being at the forefront of providing progressive services and treatment.

Secondly the President's proposal for a minimum of 75 percent of Ryan White CARE Act funding to be spent on core medical services should be seriously revisited. While there is no question that appropriate funding should be directed towards medical care, localities that benefit from comprehensive state funding for medical care, might better serve patients with using the funding for transportation to medical visits, emergency housing assistance for homeless patients, and other key services. This hard number fails to reflect the different resources that cities like New York utilize to care for their patients, and the changing needs of the HIV/AIDS patient population.

As a member of the Energy and Commerce Committee, I look forward to holding hearings on the reauthorization of the Ryan White CARE Act. We must work together with the Senate to strengthen and preserve the foundation of the Ryan White CARE Act program with the compassion and thoughtful consideration it deserves.

ANNIVERSARY OF THE 19TH AMENDMENT

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. KILDEE. Mr. Speaker, I rise before you today to celebrate a true milestone in our Nation's history, the 85th anniversary of our Constitution's 19th amendment, guaranteeing that "the rights of citizens to vote shall not be denied or abridged by the United States or by any State on account of sex."

The efforts of pioneers in the fight for women's suffrage such as Susan B. Anthony, Alice Paul, Lucretia Mott, and Elizabeth Cady Stanton, served not only to advance women's rights, but also promoted equality for all Americans.

I would also like to acknowledge the contributions made by Business and Professional Women/USA during the suffrage movement, most notably the organization's oldest Michigan chapter, located in Saginaw. These women were dedicated to protecting and defending human dignity. Those beliefs remain today with the current members of BPW, who continue to strive for the betterment of women in society.

Mr. Speaker, I ask my colleagues in the 109th Congress to please join me in recognizing the 85th anniversary of the 19th amendment to the Constitution. It has helped make our country a better place in which to live.

INTRODUCING THE PUBLIC HEALTH AND ENVIRONMENTAL EQUITY ACT

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. HASTINGS of Florida. Mr. Speaker, I rise today with my good friend, Representative HILDA SOLIS, and Senators KERRY and DURBIN to introduce the Public Health and Environmental Equity Act.

It has been 5 weeks since Hurricane Katrina devastated the lives and landscapes of the gulf coast region. The floodwaters that ravaged Louisiana, Alabama, and Mississippi in the last month have finally begun to recede and America and the world have become all too aware of the losses suffered by the citizens of these areas. They have lost family and loved ones. Most have lost homes, jobs, and businesses. And in their greatest hour of need, they were left abandoned and forgotten. Our own President was forced to admit the shortcomings of the so-called "relief" effort.

While nothing can ever make up for the misery endured in the first days of the storm, there is plenty we must do to alleviate additional harm as rebuilding begins. Understandably, residents are anxious to get back to their homes and to their lives. Anxious contractors with a different agenda have vowed that such a mission can be fulfilled sooner rather than later. They want us to believe that homes, buildings, and schools fully submerged from weeks of raw sewage, pesticides, solvents, decaying corpses, and teaming with mold will magically become clean and safe to move into.

How will they accomplish such a feat? Their plan: Have the EPA completely waive every environmental mandate that has protected us for 35 years. Simply put, this means that anyone involved in Katrina rebuilding will be allowed to dump where they want, pollute where and when they want, and contaminate for as long as they want. It's a quick-but-dirty solution for cleanup and reconstruction with no regard for maintaining clean air, water, or soil. Once in place, environmental loopholes attributed to Katrina recovery in the gulf region will also be the excuse for any company to create toxic breeding grounds anywhere in the country. Your backyard could be next.

Mr. Speaker, waiving these long-standing environmental regulations is an irresponsible and unconscionable way to jump-start the rebuilding process. What we'll end up with are toxic residues that will sicken these communities for years to come. Residents who return to their homes under such EPA waivers will face a lifetime of illness and uncertainty about the water they drink, the air they breathe, and the soil they walk on every day. Failure to fully implement current environmental health and safety regulations jeopardizes every human and ethical standard we claim to hold dear. Loosening these environmental safeguards will further victimize those still struggling to regain their lives.

We know what Katrina's victims look like; we know their income level; and we know why they've been ignored. To roll back highly regarded environmental protections will add insult to an already festering injury of racial and social injustices. The citizens of the gulf coast

want the same things the rest of America strives for—a safe place to live, work, and raise their families. They expect their elected officials to uphold laws that secure these basic necessities. They deserve our assurances and our actions that the value of their lives are no longer a back burner issue.

Katrina's victims already survived the worst natural disaster in modern American history. They've already survived a relief effort that can only be described as shameful. Why on earth would we create a man-made catastrophe and tell them it's in their best interest?

The resolution which we are introducing today makes Congress's commitment clear and obvious that we do not believe that Katrina—or any other natural disaster—should be used to justify rolling back and completely waiving environmental regulations. I ask for our colleagues' support and urge the House to move this resolution swiftly.

PROVIDING FOR CONSIDERATION OF H.R. 2123, SCHOOL READINESS ACT OF 2005

SPEECH OF

HON. RAÚL M. GRIJALVA

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 22, 2005

Mr. GRIJALVA. Mr. Chairman, I rise today in support of H.R. 2123, as this bill is a remarkable improvement on last Congress's version and includes important provisions which will benefit all Head Start participants. I will, however, vote against this legislation if Leadership succeeds in inserting a "poison pill" that, if adopted, would mark the first time Congress would permit organizations that run Head Start programs to discriminate against job applicants solely on the basis of their religion.

While by no means a perfect bill, this legislation stands as a testament to the progress that can be made through bipartisan cooperation. This bill contains none of the controversial provisions from last Congress, such as block granting or universal competitions. Instead, H.R. 2123 contains several provisions which will benefit all Head Start participants, and I am proud of this fact and have worked hard with my Colleagues towards achieving these goals.

In particular, H.R. 2123 provides additional resources for Migrant and Seasonal Head Start (MSHS) program expansion, which will allow for thousands of farm-worker children to exit the fields and enter the classroom. This expansion includes a 5% funding floor for Migrant and Seasonal Head Start. In step with this funding floor, the Secretary is required to compose a report determining how well we are serving children eligible for Migrant and Seasonal Head Start. The bill also requires a study on the status of limited-English-proficient children and their families in Head Start and Early Head Start programs. These provisions and many others included in the bill before us today will benefit all Head Start students and families and set kids on the right foot for competing with their peers throughout their school years.

Mr. Chairman, it is evident that the provisions in this year's bill will help millions of Head Start students and their families' educational, personal, and economic well-being. I ask, why, then, are we considering inserting a poison pill into this remarkable piece of legislation? The amendment offered by Mr. BOUSTANY would severely block the program's participants, children and parents, from climbing out of poverty to self-sufficiency. This is simply unacceptable in light of what Katrina has unearthed as a systemic problem in our country: widespread and unresolved poverty.

This amendment would prevent volunteer Head Start parents from moving off the welfare rolls into self-sufficiency as Head Start certified teachers, simply because they are the wrong religion. This outcome is not needed, not wanted, and definitely not helpful to the millions living in poverty today.

Additionally, this amendment also sets a dangerous precedent: such a change would allow faith-based organizations to discriminate not just on the basis of a person's religious affiliation, but also on how closely they follow the tenets of that religion. This could include religious beliefs on medical treatments, marriage, pregnancy, gender, and even race.

Don't let Head Start fail by excluding qualified teachers and engaged parents from Head Start programs run by faith-based organizations. I urge my colleagues to vote no on final passage if this dangerous amendment passes.

SUPPORTING THE GOALS AND IDEALS OF DOMESTIC VIOLENCE AWARENESS MONTH

SPEECH OF

HON. JANICE D. SCHAKOWSKY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 27, 2005

Ms. SCHAKOWSKY. Mr. Speaker, I rise today to support all the women and children who have survived domestic violence, and for all the women whose lives have been claimed by domestic abuse. It is abhorrent that violence within our homes continues to be prevalent today—nearly one in four American women report being physically or sexually abused by a husband or boyfriend at some point in their lives. Violence against women is a profound and extremely pervasive problem, striking across borders, across economic, cultural and ethnic backgrounds, and across all age groups. It is an epidemic that affects not only women, but their children and families as well.

As we recognize National Domestic Violence Awareness Month this October, it is time that we actively work to end violence against women. I would like to draw special attention to immigrant women who continue to lack access to many resources that would enable them to escape domestic abuse. While we were able to include many critical provisions of relief to battered immigrant women when we reauthorized the Violence Against Women Act in 2000, there are still battered immigrants, like asylees and the elderly, who are forced to remain in abusive relationships, unable to appeal for protection from law enforcement and the courts for fear of deportation. I have introduced H.R. 3188, the Immigrant Victims of Violence Protection Act, which will allow them to safely escape their abusers without fear of deportation or other negative immigration consequences. This legislation would also provide a safety net for battered legal immigrants and their children by allowing them access to work permits, health insurance, food, and other benefits required to escape their abuser and gain economic independence.

It is time that we change attitudes in this country so that violence against women is no longer tolerated. We are devoting extensive resources to ending terror around the world, while at the same time one in four women continue to be terrorized by domestic violence and sexual assault in their lifetime. It is time that we devote the same amount of resources to ending a form of violence that terrorizes over half the population of this globe. We must teach our sons that violence of any kind is unacceptable; we must give our daughters encouragement and support so they have the self-esteem to leave abusive relationships; and we must start to envision a world free of violence against women. I believe that if we all work together, we can turn this vision into reality. But it is going to take resources, hard work, and, most of all, incredible resolve. I challenge my colleagues to make the fight against domestic violence a top priority, and together we can make this country a safer place for our mothers, daughters, sisters, and friends.

CONGRATULATIONS TO THE FRANK C. LEAL ELEMENTARY SCHOOL UPON BEING NAMED A NATIONAL BLUE RIBBON SCHOOL OF EXCELLENCE

HON. LINDA T. SÁNCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, on September 22nd, the Frank C. Leal Elementary School of Cerritos was awarded the distinct honor of being named a National Blue Ribbon School of Excellence. Frank C. Leal Elementary joins 33 other public schools and seven additional private schools in the State of California who have also been named National Blue Ribbon Schools of Excellence. I commend the efforts of each and every one of these outstanding California schools.

The Blue Ribbon Schools is a national recognition program sponsored by the U.S. Department of Education. The 22-year-old program encourages states to nominate public and private kindergarten through grade twelve schools that are either academically superior or demonstrate dramatic gains in student achievement.

This Blue Ribbon distinction duly recognizes the level of excellence that is achieved everyday at Frank C. Leal Elementary School of Cerritos. This school is setting a national example of what it takes to be a superior learning environment. It is absolutely essential that our schools continue to strive for excellence, if we want our students to realize their academic potential.

Frank C. Leal Elementary School is a visual and performing arts magnet school, and is a testament to the impact that an arts education can have on a student's academic achievement. I commend the hard working teachers and school administrators of Frank C. Leal Elementary School of Cerritos for their contributions and commitment to our young people. I

also would like to recognize the parents and our community for supporting the Frank C. Leal Elementary School's efforts to help every child reach their full potential.

Education has always been tied to the promise of equality and opportunity for all and the ABC Unified School District and the community of Cerritos have worked hard to give every student an equal chance to succeed. Congratulations to the Frank C. Leal Elementary School of Cerritos and the ABC Unified School District for this incredible achievement!

A PROCLAMATION RECOGNIZING THE CAPITOL PURSUIT DRIVE

HON. HOWARD P. "BUCK" McKEON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. MCKEON. Mr. Speaker:

Whereas, the American League of Lobbyists and Men's Wearhouse, have created the annual Capitol PurSuit Drive and through their efforts to help citizens in Washington D.C. and nationwide to obtain employment; and

Whereas, The 2nd Annual Capitol PurSuit Drive event will be held on October 5 from 10:00 a.m.–2:00 p.m. in the Rayburn Foyer; and

Whereas, the American League of Lobbyists and Men's Wearhouse, should be commended for their excellence in service to the local community for their unwavering dedication to helping individuals acquire the necessary skills and attire to pursue a career; and

Whereas the First Annual Capitol Pursuit Drive successfully collected over 7,000 suits as tax deductible donations in under four hours on Capitol Hill and the recent events in the affected Gulf Coast region have created an additional need by displaced residents.

Therefore, I join with Members of Congress and their staff in honoring and congratulating the Capitol PurSuit Drive for its outstanding mission and efforts.

PERSONAL EXPLANATION

HON. TED POE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. POE. Mr. Speaker, due to preparations for Hurricane Rita in my district, I unfortunately missed the following votes on the House floor on Friday, September 22, 2005.

I ask that the RECORD reflect that had I been able to vote that day, I would have voted "yea" on rollcall vote No. 488 (Sauder Amendment to H.R. 2123), 489 (Stearns Amendment to H.R. 2123), 491 (Musgrave Amendment to H.R. 2123), 492 (Boehner Amendment to H.R. 2123), and rollcall vote No. 493 (Final Passage of H.R. 2123, School Readiness Act). I strongly support these amendments and the bill because they take important steps to prepare children for success in school.

I also ask that the RECORD reflect that had I been able to vote that day, I would have voted "nay" on rollcall vote No. 490 (Davis (D–IL) Amendment to H.R. 2123).

REMEMBERING THE LIFE OF JUDGE CONSTANCE BAKER MOTLEY

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 2005

Mr. HASTINGS of Florida. Mr. Speaker, I rise today to remember and honor the invaluable contributions of Judge Constance Baker Motley. She died of congestive heart failure at NYU Downtown Hospital in New York City yesterday at the age of 84. Judge Motley was a woman of many firsts and true pioneer in the civil rights struggle.

Judge Motley was a woman with numerous accomplishments. She helped write briefs in the groundbreaking Brown vs. Board of Education case in 1954 and she headed a legal campaign that opened admission at the University of Mississippi to James Meredith in 1962. Meredith was the first African American student to attend that school. By the time he graduated in 1963, Constance Motley had made 22 trips to Mississippi on behalf of the case. Later that year, she helped 1,100 black children be reinstated in Birmingham after they were expelled for taking part in a demonstration. Judge Motley also served as the first black woman in the New York State Senate in 1964 and the first woman borough president for Manhattan.

In 1966, Judge Motley was sworn in by President Lyndon Johnson as the first African American woman to serve as a federal judge. She ruled on a number of cases that dealt with everything from discrimination in housing to denial of benefits to Medicaid recipients to prisoners who had been unconstitutionally confined to solitary confinement for more than a year.

Her aspiration for what she termed as "dignity for all people" emerged early. Constance Motley was the ninth of twelve children born to parents from the small Caribbean island of Nevis. At the age of 15, she was not allowed onto a public beach because she was black. It was then that she began reading all she could about black history. She later became president of her N.A.A.C.P youth council.

Three years later, Clarence W. Blakeslee, a white philanthropist, heard Constance Motley giving a speech at an African-American social center. He was so moved by her stately oration that he offered to finance her aspirations for a law degree.

Judge Motley attended Fisk University in Nashville, my alma mater, then transferred to New York University. In 1946, she graduated from Columbia School of Law and become a volunteer at the N.A.A.C.P.'s Legal Defense and Education Fund, which had been founded by Thurgood Marshall.

Known for her dignified manner and quiet approach, Judge Motley was highly regarded as an extraordinary legal tactician. It was also one of the reasons Thurgood Marshall felt that she could be so effective during the Meredith case in 1961. Of the ten cases she argued before the Supreme Court, Judge Motley won nine. She continued to work tirelessly on a variety of civil rights cases. One of the most recent cases included her decision in 1978 allowing a female reporter to be admitted to the New York Yankees' locker room.

Mr. Speaker, Judge Constance Baker Motley was a brilliant advocate for the legal rights of all people. In her autobiography Equal Justice Under Law, Motley said defeat never entered her mind. "We all believed that our time had come and that we had to go forward." It is with this faith that she lived, and in this spirit that she will forever be remembered.

Daily Digest

HIGHLIGHTS

Senate confirmed the nomination of John G. Roberts, Jr., to be Chief Justice of the United States.

House Committees ordered reported 13 sundry measures.

Senate

Chamber Action

Routine Proceedings, pages S10631–S10771

Measures Introduced: Fifteen bills and three resolutions were introduced, as follows: S. 1789–1803, S. Res. 260–261, and S. Con. Res. 55. **Pages S10723–24**

Measures Reported:

Report to accompany H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006. (S. Rept. No. 109–141)

S. 1803, to authorize appropriations for fiscal year 2006 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Management Account, and the Central Intelligence Agency Retirement and Disability System. (S. Rept. No. 109–142)

S. 1725, to strengthen Federal leadership, provide grants, enhance outreach and guidance, and provide other support to State and local officials to enhance emergency communications capabilities, to achieve communications interoperability, to foster improved regional collaboration and coordination, to promote more efficient utilization of funding devoted to public safety communications, to promote research and development by both the public and private sectors for first responder communications, with amendments. **Page S10722**

Measures Passed:

Medicare Cost Sharing and Welfare Extension Act: Committee on Finance was discharged from further consideration of S. 1778, to extend medicare cost-sharing for qualifying individuals through September 2006, to extend the Temporary Assistance for Needy Families Program, transitional medical assistance under the Medicaid Program, and related programs through March 31, 2006, and the bill was then passed, after agreeing to the following amendment proposed thereto:

Grassley/Baucus Amendment No. 1894, to eliminate coverage under the Medicare and Medicaid programs for drugs when used for treatment of erectile dysfunction. **Page S10696**

Department of Defense Appropriations: Senate began consideration of H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, agreeing to the committee amendment in the nature of a substitute, which will be considered as original text for the purpose of further amendment, after taking action on the following amendments proposed thereto:

Pages S10656–88, S10699–S10705

Adopted:

Harkin Amendment No. 1886, to make available emergency funds for pandemic flu preparedness.

Pages S10685–88, S10701

Leahy/Bond Modified Amendment No. 1901, to appropriate $1,300,000,000 for Additional War-Related Appropriations for National Guard and Reserve Equipment for homeland security and homeland security response equipment. **Pages S10700–02**

Durbin Amendment No. 1908, to ensure that a Federal employee who takes leave without pay in order to perform service as a member of the uniformed services or member of the National Guard shall continue to receive pay in an amount which, when taken together with the pay and allowances such individual is receiving for such service, will be no less than basic pay such individual would then be receiving if no interruption in employment had occurred. **Pages S10702–05**

Senate expects to continue consideration of the bill on Friday, September 30, 2005.

Nomination—Joint Referral: A unanimous-consent agreement was reached providing that the nomination of Franklin L. Lavin, of Ohio, to be Under Secretary of Commerce for International Trade, be referred jointly to the Committee on Finance and the Committee on Banking, Housing, and Urban Affairs. **Page S10771**

Messages From the President: Senate received the following message from the President of the United States:

Transmitting, pursuant to law, a notification regarding the proposed use of public safety funds provided to the District of Columbia pursuant to title I of the District of Columbia Appropriations Act, 2005, Public Law 108–335; which was referred to the Committee on Appropriations. (PM–24) **Page S10721**

Nominations Confirmed: Senate confirmed the following nomination:

By 78 yeas 22 nays (Vote No. EX. 245), John G. Roberts, Jr., of Maryland, to be Chief Justice of the United States. **Pages S10631–50**

Nominations Received: Senate received the following nominations:

Gigi Hyland, of Virginia, to be a Member of the National Credit Union Administration Board for a term expiring August 2, 2011.

J. Thomas Rosch, of California, to be a Federal Trade Commissioner for the term of seven years from September 26, 2005.

Margaret Spellings, of Texas, to be a Representative of the United States of America to the Thirty-third Session of the General Conference of the United Nations Educational, Scientific, and Cultural Organization.

James Hardy Payne, of Oklahoma, to be United States Circuit Judge for the Tenth Circuit. **Page S10771**

Messages From the House: **Page S10721**

Measures Read First Time: **Page S10721**

Executive Communications: **Pages S10721–22**

Executive Reports of Committees: **Pages S10722–23**

Additional Cosponsors: **Pages S10724–25**

Statements on Introduced Bills/Resolutions: **Pages S10725–61**

Additional Statements: **Pages S10719–21**

Amendments Submitted: **Pages S10761–69**

Authority for Committees to Meet: **Pages S10769–70**

Privilege of the Floor: **Page S10770**

Record Votes: One record vote was taken today. (Total—245) **Pages S10649–50**

Adjournment: Senate convened at 9:30 a.m., and adjourned at 8:26 p.m., until 9:30 on Friday, September 30, 2005. (For Senate's program, see the remarks of the Majority Leader in today's Record on page S10771.)

Committee Meetings

(Committees not listed did not meet)

IRAQ

Committee on Armed Services: Committee concluded a hearing to examine United States military strategy and operations in Iraq, after receiving testimony from Donald H. Rumsfeld, Secretary, General Richard B. Myers, USAF, Chairman, Joint Chiefs of Staff, General John P. Abizaid, USA, Commander, U.S. Central Command, and General George W. Casey, USA, Commanding General, Multi-National Force-Iraq, all of the Department of Defense.

BUSINESS MEETING

Committee on Armed Services: Committee ordered favorably reported 3,979 military nominations in the Army, Navy, Air Force, and Marine Corps.

BUSINESS MEETING

Committee on Banking, Housing, and Urban Affairs: Committee ordered favorably reported the nominations of Emil W. Henry, Jr., of New York, to be Assistant Secretary for Financial Institutions, and Patrick M. O'Brien, of Minnesota, to be Assistant Secretary for Terrorist Financing, both of the Department of the Treasury, Keith E. Gottfried, of California, to be General Counsel, and Kim Kendrick, of the District of Columbia, to be Assistant Secretary, Keith A. Nelson, of Texas, to be Assistant Secretary, and Darlene F. Williams, of Texas, to be Assistant Secretary, all of the Department of Housing and Urban Development, and Israel Hernandez, of Texas, to be Assistant Secretary and Director General of the United States and Foreign Commercial Service, Darryl W. Jackson, of the District of Columbia, to be Assistant Secretary, Franklin L. Lavin, of Ohio, to be Under Secretary for International Trade, and David H. McCormick, of Pennsylvania, to be Under Secretary for Export Administration, all of the Department of Commerce.

COMMUNICATIONS INTEROPERABILITY IN A DISASTER

Committee on Commerce, Science, and Transportation: Committee held a hearing to examine communications for first responders in disaster, focusing on

damage wrought by Hurricane Katrina to the communications industry and the Federal Communications Commission's efforts to assist consumers, the industries the agency regulates, and other Federal Agencies during this difficult crisis, including efforts to address public safety interoperability issues, receiving testimony from Kenneth P. Moran, Director, Office of Homeland Security, Enforcement Bureau, Federal Communications Commission; David G. Boyd, Director, Office for Interoperability and Compatibility, Systems Engineering and Development, Directorate of Science and Technology, Department of Homeland Security; Dereck Orr, Program Manager, Public Safety Communications Systems, National Institute of Standards and Technology, Technology Administration, Department of Commerce; and Willis Carter, Shreveport Fire Department, Shreveport, Louisiana, on behalf of the Association of Public-Safety Communications Officials-International.

Hearings recessed subject to the call.

TREATIES

Committee on Foreign Relations: Committee concluded a hearing to examine the Protocol of 1997 Amending MARPOL Convention (Treaty Doc. 108–7), Agreement with Canada on Pacific Hake/Whiting (Treaty Doc. 108–24), Convention Concerning Migratory Fish Stock in the Pacific Ocean (Treaty Doc. 109–1), Convention Strengthening Inter-American Tuna Commission (Treaty Doc. 109–2), and the Convention on Supplementary Compensation on Nuclear Damage (Treaty Doc. 107–21), after receiving testimony from David A. Balton, Deputy Assistant Secretary for Oceans and Fisheries, Bureau of Oceans and International Environmental and Scientific Affairs, Warren M. Stern, Senior Coordinator for Nuclear Safety, both of the Department of State; Bryan C. Wood-Thomas, Senior Advisor, Office of International Environmental Policy, Environmental Protection Agency; and James Bennett McRae, Assistant General Counsel for Civilian Nuclear Programs, Department of Energy.

U.S.-JAPAN RELATIONS

Committee on Foreign Relations: Subcommittee on East Asian and Pacific Affairs concluded a hearing to examine United States-Japan relations and future policies, after receiving testimony from Christopher R. Hill, Assistant Secretary of State for East Asian and Pacific Affairs; Richard P. Lawless, Deputy Under Secretary of Defense for Asian and Pacific Affairs; Amelia Porges, Sidley, Austin Brown & Wood LLP, Washington, D.C.; Stephen P. MacMillan, Stryker Corporation, Kalamazoo, Michigan, on behalf of the Advanced Medical Technology Association; and Gerald Curtis, Columbia University Department of Political Science, New York, New York.

DEFENSE TRAVEL SYSTEM

Committee on Homeland Security and Governmental Affairs: Permanent Subcommittee on Investigations concluded a hearing to examine the effectiveness and cost of the Defense Travel System (DTS) of the Department of Defense, focusing on whether DTS can deliver on the increased efficiency and cost savings that were anticipated when the program was established, after receiving testimony from Senator Grassley; Thomas F. Gimble, Acting Inspector General, Scott A. Comes, Director, Strategic and Information Programs Division, Program Analysis and Evaluation, and Zack E. Gaddy, Director, Defense Finance and Accounting Service, all of the Department of Defense; McCoy Williams, Director, Financial Management and Assurance, Government Accountability Office; Thomas A. Schatz, Citizens Against Government Waste, Washington, D.C.; and Robert Langsfeld, The Corporate Solutions Group, Menlo Park, California.

PROCUREMENT PROCESS

Committee on Homeland Security and Governmental Affairs: Subcommittee on Federal Financial Management, Government Information, and International Security concluded an oversight hearing to examine certain activities of the General Services Administration, focusing on the procurement process, which includes acquisition of workspace, equipment, technology, furniture, supplies, vehicles, and professional services, after receiving testimony from Stephen A. Perry, Administrator, General Services Administration.

NOMINATIONS

Committee on Veterans Affairs: Committee concluded a hearing to examine the nominations of William F. Tuerk, of Virginia, to be Under Secretary for Memorial Affairs, who was introduced by Senator Specter, Robert Joseph Henke, of Virginia, to be Assistant Secretary for Management, John M. Molino, of Virginia, to be Assistant Secretary for Policy and Planning, Lisette M. Mondello, of Texas, to be Assistant Secretary for Public and Intergovernmental Affairs, who was introduced by Senator Hutchison, and George J. Opfer, of Virginia, to be Inspector General, all of Department of Veterans Affairs, after the nominees testified and answered questions in their own behalf.

DRUG ADVERTISING

Special Committee on Aging: Committee concluded a hearing to examine the impact of direct-to-consumer drug advertising on seniors' health and health care

costs, after receiving testimony from Rachel E. Behrman, Deputy Director, Office of Medical Policy, Center for Drug Evaluation and Research, Public Health Service, Food and Drug Administration, Department of Health and Human Services; Paul Antony, Pharmaceutical Research and Manufacturers of America, Donna Sweet, American College of Physicians, and Peter Lurie, Public Citizen, all of Washington, D.C.; and Richard L. Kravitz, University of California Center for Health Services Research in Primary Care Davis Medical Center, Sacramento, California.

House of Representatives

Chamber Action

Public Bills and Resolutions Introduced: 29 public bills, H.R. 3938–3966; and 7 resolutions, H. Con. Res. 256–257; and H. Res. 472–473, 475–477 were introduced. **Pages H8642–43**

Additional Cosponsors: **Pages H8643–45**

Reports Filed: Reports were filed today as follows:

Conference Report on H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006 (Rept. 109–241);

H. Res. 474, waiving points of order against the conference report to accompany the bill (H.R. 2360) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006 (Rept. 109–242); and

H.J. Res. 65, disapproving the recommendations of the Defense Base Closure and Realignment Commission, adversely (Rept. 109–243).

Pages H8585–H8626, H8642

Chaplain: The prayer was offered today by Rev. Kevin Gormley, Pastor, St. Peter Church, Marshall, Missouri. **Page H8515**

Suspensions: The House agreed to suspend the rules and pass the following measures which were debated on Wednesday, September 28:

Expressing the sense of the House of Representatives regarding the July, 2005, measures of extreme repression on the part of the Cuban Government: H. Res. 388, to express the sense of the House of Representatives regarding the July, 2005, measures of extreme repression on the part of the Cuban Government against members of Cuba's pro-democracy movement, calling for the immediate release of all political prisoners, the legalization of political parties and free elections in Cuba, urging the European Union to reexamine its policy toward Cuba, and calling on the representative of the United States to the 62d session of the United Nations Commission on Human Rights to ensure a resolution calling upon the Cuban regime to end its human rights violations, by a yea-and-nay vote of 393 yeas to 31 nays, Roll No. 503; **Pages H8529–30**

Expressing the sense of Congress that the United States Supreme Court should speedily find the use of the Pledge of Allegiance in schools to be consistent with the Constitution of the United States: H. Con. Res. 245, to express the sense of Congress that the United States Supreme Court should speedily find the use of the Pledge of Allegiance in schools to be consistent with the Constitution of the United States, by a yea-and-nay vote of 383 yeas to 31 nays with 8 voting ''present'', Roll No. 504; and **Pages H8530–31**

Recognizing the need to pursue research into the causes, a treatment, and an eventual cure for idiopathic pulmonary fibrosis, supporting the goals and ideals of National Idiopathic Pulmonary Fibrosis Awareness Week: H. Con. Res. 178, as amended, to recognize the need to pursue research into the causes, a treatment, and an eventual cure for idiopathic pulmonary fibrosis, supporting the goals and ideals of National Idiopathic Pulmonary Fibrosis Awareness Week, by a yea-and-nay vote of 401 yeas with none voting ''nay'', Roll No. 508. **Pages H8584–85**

Continuing Appropriations for the Fiscal Year 2006: The House agreed to H.J. Res. 68, making continuing appropriations for the fiscal year 2006, by a yea-and-nay vote of 348 yeas to 65 nays, Roll No. 507. **Pages H8531–35, H8584**

Point of Order sustained against:

Obey motion that sought to recommit the bill to the Committee on Appropriations with instructions to report the resolution back to the House forthwith with amendments. **Pages H8534–35**

H. Res. 469, the rule providing for consideration of the resolution, was agreed to by voice vote. **Pages H8525–28**

Threatened and Endangered Species Recovery Act of 2005: The House passed H.R. 3824, to amend and reauthorize the Endangered Species Act

of 1973 to provide greater results conserving and recovering listed species by a recorded vote of 229 ayes to 193 noes, Roll No. 506. **Pages H8535–84**

Pursuant to the rule that in lieu of the amendment recommended by the Committee on Resources now printed in the bill, the amendment in the nature of a substitute consisting of the text of the Resources Committee Print dated September 26, 2005 shall be considered as an original bill for the purpose of amendment and shall be considered as read. **Pages H8551–83**

Agreed to:

Pombo Manager's amendment (No. 1 printed in H. Rept. 109–240) that makes a number of technical changes to clarify certain provisions and address issues concerning science, definition of ''jeopardy'', consolidation of ESA related programs, and review of protective regulations. Allows actions authorized under an approved Section 10 permit to be carried out without duplicative consultation. The amendment prevents water stakeholders from being held accountable for impacts due to State actions. The amendment requires the four Power Marketing Administrations to include ESA costs in their monthly billings. The amendment directs the Secretary of Interior to survey certain Federal lands to assess their value for report to Congress. The amendment clarifies conflicting statutes to make ESA the governing statutory authority when receiving a dock building permit. **Pages H8560–64**

Rejected:

George Miller of California amendment in the nature of a substitute (No. 2 printed in H. Rept. 109–240) that sought to improve the use of science, providing certainty to landowners, providing flexibility on deadlines for listing species, creating a voluntary conservation program to promote species conservation on private lands, creating a technical assistance program to help small landowners, increasing the role of State and localities, ensuring accountability of the Department of Interior, ensuring that permit and license applicants fully participate in the consultations process, and requiring a balancing of risks in planning for species recovery (by a recorded vote of 206 ayes to 216 noes, Roll No. 505). **Pages H8564–83**

The amendment in the nature of a substitute, as amended, was adopted. **Page H8583**

H. Res. 470, the rule providing for consideration of the bill was agreed to by a yea-and-nay vote of 252 yeas to 171 nays, Roll No. 502, after agreeing to order the previous question without objection. **Pages H8517–25, H8528–29**

Speaker Pro Tempore: Read a letter from the Speaker wherein he appointed Representative Thornberry to act as Speaker pro tempore to sign enrolled bills and joint resolutions through October 6, 2005. **Page H8627**

Canada—U.S. Interparliamentary Group—Appointment: The Chair announced the Speaker's appointment of the following Members of the House to the Canada—United States Interparliamentary Group: Representative Oberstar, Shaw, Slaughter, Stearns, English of Pennsylvania, Souder, Tancredo and Lipinski. **Page H8627**

Presidential Message: Read a message from the President wherein he notified Congress of the proposed use of funds for the District of Columbia as provided in title I (Public Law 108–335) under the heading ''Federal Payment for Emergency Planning and Security Costs in the District of Columbia.'' (H. Doc. 109–58). **Page H8627**

Meeting Hour: Agreed that when the House adjourn today, it adjourn to meet at 4 p.m. on Monday, October 3, and when the House adjourns on Monday, it adjourn to meet at 10 a.m. on Thursday, October 6, 2005, for Legislative Business. **Page H8640**

Senate Message: Messages received from the Senate today appear on pages H8515 and H8584.

Senate Referrals: S. 1235. was referred to the Committee on Veteran Affairs; S. 1786 was referred to the Committee on Transportation and Infrastructure; and S. 1778 was referred to the Committees on Energy and Commerce and Ways and Means. **Page H8640**

Quorum Calls—Votes: Five yea-and-nay votes and two recorded votes developed during the proceedings of today and appear on pages H8529, H8529–30, H8530–31, H8582–83, H8583–84, and H8585. There were no quorum calls.

Adjournment: The House met at 10 a.m. and adjourned at 7:42 p.m.

Committee Meetings

FEDERAL AGRICULTURE POLICY

Committee on Agriculture: Subcommittee on General Farm Commodities and Risk Management held a hearing to review the current state of the farm economy and the economic impact of Federal policy on agriculture. Testimony was heard from Keith Collins, Chief Economist, USDA, and Chairman, Federal Crop Insurance Corporation; Howard Gruenspecht, Deputy Administrator, Energy Information Administration, Department of Energy; and public witnesses.

OPERATIONS IN IRAQ

Committee on Armed Services: Held a hearing on operations in Iraq. Testimony was heard from the following officials of the Department of Defense: Donald H. Rumsfeld, Secretary; GEN Richard B. Myers, USAF, Chairman. Joint Chiefs of Staff; GEN John Abizaid, USA, Commander, U.S. Central Command; and GEN George W. Casey, Jr., USA, Commanding General, Multi-National Force—Iraq.

UNDERSTANDING THE IRAN THREAT

Committee on Armed Services: Subcommittee on Terrorism, Unconventional Threats and Capabilities held a hearing on understanding the Iran threat. Testimony was heard from public witnesses.

CLOSING THE GAP IN AMERICA'S SCHOOLS: THE NO CHILD LEFT BEHIND ACT

Committee on Education and the Workforce: Held a hearing entitled ''Closing the Achievement Gap in America's Schools: The No Child Left Behind Act.'' Testimony was heard from Margaret Spellings, Secretary of Education; Deborah Jewell-Sherman, Superintendent, Richmond Public Schools, Richmond, Virginia; and a public witness.

HURRICANE KATRINA—ENVIRONMENTAL STATUS

Committee on Energy and Commerce:. Subcommittee on Environment and Hazardous Materials held a hearing entitled ''Hurricane Katrina: Assessing the Present Environmental Status.'' Testimony was heard from Marcus C. Peacock, Deputy Administrator, EPA; LTG Carl A. Strock, USA, Chief of Engineers, and Commander, U.S. Corps of Engineers; Henry Falk, M.D., Director, National Center for Environmental Health and Agency for Toxic Substances and Disease Registry, Centers for Disease Control and Prevention, Department of Health and Human Services; Karen Gautreaux, Deputy Secretary, Department of Environmental Quality, State of Louisiana; and public witnesses.

DISASTER PUBLIC SAFETY COMMUNICATIONS

Committee on Energy and Commerce: Subcommittee on Telecommunications and the Internet held a hearing entitled ''Public Safety Communications from 9/11 to Katrina: Critical Public Policy Lessons.'' Testimony was heard from Kevin J. Martin, Chairman, FCC; David G. Boyd, Director, SAFECOM Program Office, Science and Technology Directorate, Department of Homeland Security; Vance Hitch, Chief Information Officer, Department of Justice; and public witnesses.

MORTGAGE INDUSTRY LICENSING/ REGISTRATION

Committee on Financial Services: Subcommittee on Housing and Community Opportunity held a hearing entitled ''Licensing and Registration in the Mortgage Industry.'' Testimony was heard from public witnesses.

MISCELLANEOUS MEASURES

Committee on Government Reform: Ordered reported the following measures: H.R. 1317, amended, Federal Employee Protection of Disclosures Act; H.R. 3699, amended, Federal and District of Columbia Government Real Property Act of 2005; H. Res. 15, Supporting the goals and ideals of National Campus Safety Awareness Month; H. Res. 276, Supporting the goals and ideals of Pancreatic Cancer Awareness Month; H.R. 3549, To designate the facility of the United States Postal Service located at 210 West 3rd Avenue in Warren, Pennsylvania, as the ''William F. Clinger, Jr. Post Office Building;'' H.R. 3830, To designate the facility of the United States Postal Service located at 130 Marion Avenue in Punta Gorda, Florida, as the ''U.S. Cleveland Post Office Building;'' H.R. 3853, To designate the facility of the United States Postal Service located at 208 South Main Street in Parkdale, Arkansas, as the ''Willie Vaughn Post Office;'' H.R. 923, amended, Mailing Support to Troops Act of 2005; and H. Res. 389, Supporting the goals of The Year of the Museum.

INFORMATION TECHNOLOGY/HEALTH CARE

Committee on Government Reform: Held a hearing entitled ''The Last Frontier: Bringing the IT revolution in Healthcare.'' Testimony was heard from David J. Brailer, M.D., National Coordinator, Health Information Technology, Department of Health and Human Services; Robert M. Kolodner, M.D., Chief Health Informatics Officer, Veterans Health Administration, Department of Veterans Affairs; David Powner, Director, Information Technology Management Issues, GAO; and public witnesses.

DISASTER PREPAREDNESS/COORDINATION

Committee on Homeland Security: Subcommittee on Emergency Preparedness, Science, and Technology held a hearing entitled ''Incident Command, Control, and Communications during Catastrophic Events.'' Testimony was heard from public witnesses.

EVOLVING COUNTERTERRORISM STRATEGY

Committee on International Relations: Subcommittee on International Terrorism and Nonproliferation held a hearing on Evolving Counterterrorism Strategy. Testimony was heard from public witnesses.

MISCELLANEOUS MEASURES

Committee on the Judiciary: Ordered reported the following bills: H.R. 3648, amended, To impose additional fees with respect to immigration services for intracompany transferees; H.R. 1065, as amended, without recommendation, United States Boxing Commission Act; H.R. 3647, amended, To render nationals of Denmark eligible to enter the United States as nonimmigrant traders and investors; and H.R. 1400, amended, Securing Aircraft Cockpits Against Lasers Act of 2005.

FOREIGN INFLUENCE/U.S. CONSTITUTION

Committee on the Judiciary, Subcommittee on the Constitution approved for full Committee action H. Res. 97, Expressing the sense of the House of Representatives that judicial determinations regarding the meaning of the Constitution of the United States should not be based on judgments, laws, of pronouncements of foreign institutions unless such foreign judgments, laws or pronouncements inform an understanding of the original meaning of the Constitution of the United States.

DUAL/BIRTHRIGHT CITIZENSHIP

Committee on the Judiciary: Subcommittee on Immigration, Border Security, and Claims held an oversight hearing entitled ''Dual Citizenship, Birthright Citizenship, and the Meaning of Sovereignty.'' Testimony was heard from public witnesses.

MARINE DEBRIS RESEARCH, PREVENTION, AND REDUCTION ACT

Committee on Resources: Subcommittee on Fisheries and Oceans and the Subcommittee on Coast Guard and Maritime Transportation of the Committee on Transportation and Infrastructure held a joint hearing on S. 362, Marine Debris Research, Prevention, and Reduction Act. Testimony was heard from Timothy R. E. Keeney, Deputy Assistant Secretary, Oceans and Atmosphere, NOAA, Department of Commerce; RADM Tom Gilmour, USCG, Assistant Commandant, Marine Safety and Environmental Protection, U.S. Coast Guard, Department of Homeland Security; and public witnesses.

MISCELLANEOUS MEASURES

Committee on Resources: Subcommittee on National Parks held a hearing on the following bills: H.R. 326, To amend the Yuma Crossing National Heritage Area Act of 2000 to adjust the boundary of the Yuma Crossing National Heritage Area and to extend the authority of the Secretary of the Interior to provide assistance under that Act; H.R. 1436, To remove certain use restrictions on property located in Navajo County, Arizona; and H.R. 1972, Franklin National Battlefield Study Act. Testimony was heard from Representative Blackburn; Sue Masica, Associate Director, Park Planning, Facilities and Lands, National Park Service, Department of the Interior; and public witnesses.

CONFERENCE REPORT—DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS

Committee on Rules: Granted, by voice vote, a rule waiving all points of order against the conference report to accompany H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes, and against its consideration. The rule provides that the conference report shall be considered as read.

ENTREPRENEUR SOLDIERS EMPOWERMENT ACT

Committee on Small Business: Subcommittee on Regulatory Reform and Oversight held a hearing to discuss the Entrepreneur Soldiers Empowerment Act (ESEA). Testimony was heard from Bill Elmore, Office of Veterans Affairs, SBA; John Winkler, Manpower and Personnel, Office of the Secretary, Department of Defense; Douglas Holtz-Eakin, Director, CBO.

PEST MANAGEMENT AND FIRE SUPPRESSION FLEXIBILITY ACT

Committee on Transportation and Infrastructure: Subcommittee on Water Resources and Environment held a hearing on H.R. 1749, Pest Management and Fire Suppression Flexibility Act. Testimony was heard from Representatives Otter and Cardoza; Benjamin H. Grumbles, Assistant Administrator, Water, EPA; and public witnesses.

U.S.-BAHRAIN FREE TRADE

Committee on Ways and Means: Held a hearing on the Implementation of the United States-Bahrain Free Trade Agreement. Testimony was heard from Shaun Donnelly, Assistant U.S. Trade Representative, Europe and the Mediterranean; and public witnesses.

MEDICARE VALUE-BASED PURCHASING FOR PHYSICIANS' SERVICES ACT

Committee on Ways and Means: Subcommittee on Health held a hearing on H.R. 3617, Medicare Value-Based Purchasing for Physicians' Services Act of 2005. Testimony was heard from Mark McClellan, M.D., Administrator, Centers for Medicare and Medicaid Services, Department of Health and Human Services; and public witnesses.

Joint Meetings

HOMELAND SECURITY APPROPRIATIONS ACT

Conferees agreed to file a conference report on the differences between the Senate and House passed versions of H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006.

COMMITTEE MEETINGS FOR FRIDAY, SEPTEMBER 30, 2005

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Foreign Relations: to hold hearings to examine the nominations of John Hillen, of Virginia, to be Assistant Secretary for Political-Military Affairs, Barry F. Lowenkron, of Virginia, to be Assistant Secretary for Democracy, Human Rights, and Labor, both of the Department of State, and Kent R. Hill, of Virginia, and Jacqueline Ellen Schafer, of the District of Columbia, both to be Assistant Administrator, United States Agency for International Development, 9:30 a.m., SD–419.

House

No committee meetings are scheduled.

Next Meeting of the SENATE

9:30 a.m., Friday, September 30

Senate Chamber

Program for Friday: Senate will be in a period of morning business. Senate expects to vote on final passage of a continuing resolution; following which, Senate expects to continue consideration of H.R. 2863, Defense Appropriations.

Next Meeting of the HOUSE OF REPRESENTATIVES

4 p.m., Monday, October 3

House Chamber

Program for Monday: The House will meet in pro forma session at 4 p.m.

Extensions of Remarks, as inserted in this issue

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