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House of Representatives

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mrs. MILLER of Michigan).

DESIGNATION OF THE SPEAKER PRO TEMPORE

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

WASHINGTON, DC,
October 19, 2005.

I hereby appoint the Honorable CANDICE S. MILLER to act as Speaker pro tempore on this day.

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

PRAYER

The Reverend Joseph L. Logrip, Pastor, Immaculate Conception Church, Levittown, Pennsylvania, offered the following prayer:

Father, all-powerful and ever-living God, we do well always and everywhere to give You thanks and praise. You graciously share Your governance with us, a governance where life and freedom, worship and charity, justice and peace, work and ownership are foundational to Your eternal plan. How awesome this governance. How demanding this task.

Give us, we beseech You, the gift of wisdom, the great attendant at Your throne, for Your wisdom renders right judgment and integrity of heart.

Keep us safe and strong. Allow our governance to be pleasing in Your eyes and conformable to Your commands. So we recognize You as the God of this Nation and the Lord of this land.

As always, we ask this through Christ our Lord. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from New Jersey (Mr. GARRETT) come forward and lead the House in the Pledge of Allegiance.

Mr. GARRETT of New Jersey 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.

WELCOMING THE REVEREND JOSEPH L. LOGRIP

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

Mr. FITZPATRICK of Pennsylvania. Madam Speaker, I rise today to welcome to our Nation's Capitol and to this House Chamber Father Joseph Logrip of Immaculate Conception Parish in Levittown, Pennsylvania, and to thank him for offering this morning's prayer, a custom dating back to the Continental Congress, and one that is deeply embedded in the history and tradition of this body.

Father Logrip is a teacher, a pastor, and a spiritual leader. He has been a friend and mentor for me and for thousands of others. Father Logrip's contributions both in Bucks County and throughout our Commonwealth have made him an invaluable spiritual leader for Pennsylvanians of all faiths. Under his guidance as pastor, the Church of Immaculate Conception in Levittown, Pennsylvania has grown in size and in faith, and it has enriched the lives of its parishioners and also the community around it. Father has devoted his life to the well-being of his church. He is a man of the people in a working-class community. He is a great communicator, and he is a spiritual man who conveys his spirituality in a very gentle and unassuming way. We thank him for his service and for traveling to the Nation's Capitol this morning and for offering the morning's prayer.

DOMESTIC VIOLENCE TAKES REAL LIVES

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

Mr. POE. Madam Speaker, people die because of domestic violence: Rocio Alvarado, 27, Houston. Ella Marie Broussard, 26, Houston. Ericka Cavazos, 28, Houston. Marivell Garcia, 22, Baytown. Ebony Johnson, 22, Houston. Keisha Joseph, 34, Houston. Florentina Matamoros, 31, Houston. Maria Navarro, 37, Houston. Gloria Ann Ozuna, 18, Houston. Ziba Poursheykhi, 44, Houston. Susan Soogrim, 44, Baytown. Amanda Terlouw, 25, Houston. Prudencia Vallejo, 62, Houston. Khadija Williams, 31, Humble. Sheila Marie Davis, 35, Beaumont. Joyce Volrie, 62, Beaumont.

Madam Speaker, these victims were murdered by their intimate partner, spouse, or boyfriend this very year. Domestic violence is not just a family issue but a criminal issue, a health issue, an American issue. Madam Speaker, America must be concerned about what takes place in our families and the murder of spouses in the domestic violence situation. That is just the way it is.

BUDGET AND IRAQ

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

Mr. EMANUEL. Madam Speaker, after racking up nearly $3 trillion in new debt in the past 4 years, suddenly this Congress has decided to become

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budget hawks. Tomorrow we are set to slash up to $50 billion from essential investments in America in order to cut taxes for the wealthiest 1 percent. To pay for those tax cuts, we are cutting health care, education, community investments, heating assistance, and nutritional programs. American taxpayers all the while are being asked to carry $445 billion invested in Iraq's war. In Iraq we have built and renovated 110 primary health care centers, vaccinated 3.2 million children, but right here this budget by the Republicans is cutting $10 billion from Medicaid.

In Iraq we have rehabilitated 2,700 schools, trained 36,000 secondary school teachers. In America, we are cutting $806 million from public school funding and college assistance by billions of dollars. We have funded 3,100 community development projects in Iraq, but this Congress is cutting $250 million from community development block grants.

Madam Speaker, it is our duty to rebuild Iraq, but Iraq's future should not come at the expense of America's. This Congress should be working to leave America stronger in the future, not weaker.

REGULATING GOVERNMENT-SPONSORED ENTITIES

(Mr. GARRETT of New Jersey asked and was given permission to address the House for 1 minute.)

Mr. GARRETT of New Jersey. Madam Speaker, I rise today to discuss an issue that may come before the floor of this House next week. It is the regulations of GSEs, Fannie Mae and Freddie Mac. These were institutions that were created by Congress with the main purpose of providing liquidity in the mortgage market and also to provide affordable housing for lower income families.

Unfortunately, over the years they have left their mark, and they have been plagued by multiple accounting scandals.

I commend the chairmen, Chairmen OXLEY and BAKER, for what they are doing, drafting legislation to address it; but unfortunately the bill does not go far enough. The crux of the problem is that there is no limit to the size of their portfolio, their balance sheets, the amount of debt they have. Right now it is around $1.5 trillion, $1.7 trillion in debt on their financial sheets. A failure in the system would mean that the savings and loan scandals of a few years ago would pale in comparison.

I will conclude by quoting Allen Greenspan who testified that without restrictions on the size of the GSE balance sheets, we put at risk our ability to preserve safe and sound financial markets in the United States. We must do more to regulate and rein in our GSEs.

PENTAGON'S SPIN MACHINE AND THE CANCELLATION OF ED SCHULTZ'S SHOW

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

Ms. LEE. Madam Speaker, according to its own mandate, the Armed Forces Network is supposed to provide political programming that is characterized by fairness and balance, and should provide ''reasonable opportunities for the presentation of conflicting views on important controversial public issues.''

Now, the Bush administration's Pentagon has ignored that mandate, choosing to air Rush Limbaugh as its only daily political programming. This is the same man who spent weeks condoning and trivializing the abuse, torture, and rape of Iraqi prisoners. Should this be the only political voice that our soldiers hear daily around the world?

On Monday, our soldiers were finally supposed to hear a differing voice, liberal radio talk show host Ed Schultz. However, the Pentagon called to inform Schultz minutes before his debut that they were pulling his show. Why? They did not give him an answer. Schultz tried to explain this decision to his listeners, saying on Monday that the Pentagon does not want dissenting voices or any other kind of speech unless it is going to be promotional for them.

Madam Speaker, perhaps more than anyone else our troops abroad deserve to hear all political opinions from home. Remember, this is a democracy.

DEMOCRATS AND THE $61 BILLION BARGAIN BUDGET

(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. Madam Speaker, if Democrats had their way, Americans would be forced to pay higher taxes to cover the billions of dollars of excessive government spending proposed by Democrats every year. Yesterday, while opposing tax cuts for hard-working American families, Democrat Leader NANCY PELOSI conveniently forgot that her party has proposed to increase the Federal budget by $61 billion in only 3 years. If $61 billion is a vision of fiscal restraint, this is an obvious misinterpretation of the facts.

As Democrats search for ways to spend more taxpayer money, House Republicans are working hard to decrease the deficit and eliminate frivolous government programs. Yesterday, we announced a plan to terminate 98 unnecessary programs and save taxpayers more than $4.3 billion. House Republicans will continue to work for fiscal discipline because, if left up to Minority Leader PELOSI, the budget would be at least $61 billion larger as Democrats continue their worn-out policies of tax and spend.

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

WATER OBJECTIVES

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

Mr. BLUMENAUER. Madam Speaker, the turmoil surrounding the Katrina aftermath and some of the winds of change here in Washington, DC, obscures the fact that every 15 seconds a child dies needlessly and hundreds of millions of people worldwide are sick from waterborne diseases. But a small bright spot is emerging for the United States leadership potential on this issue. I commend Senator FRIST for his personal concern and leadership in the other body and bipartisan legislation co-sponsored by Democratic leader Senator REED. In the foreign ops bill there is $200 million in the Senate version dedicated for water objectives, a significant increase given that we are currently only spending $8 million in the entire continent of Africa.

We await floor action on our bill out of the House International Relations Committee, the Paul Simon Water for the Poor Act, where Congress can act to pull together the pieces for a global water strategy. It is easily within our power to meet our commitments to extend safe drinking water and sanitation to over a billion people in need.

SPENDING REDUCTIONS

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

Mrs. BLACKBURN. Madam Speaker, if House liberals had their way, last year we would have spent $7.4 billion more on social programs, and here we are in the middle of a war on terrorism. We are facing new expenses with that war. We are working to rebuild after hurricanes Katrina and Rita, and the Democrats are saying, spend more, spend more.

Madam Speaker, the American people need to know what that means. When they say spend more, it means the American people are going to turn over more of their hard-earned money. Republicans in this House, from our newest Members to our leadership, are talking about how to reduce spending. Democrats are either staying quiet and hoping to avoid this subject or simply ignoring the bottom line and calling for increases in their pet projects. Their leadership consistently fails to do anything but complain and is not endorsing spending reductions.

Enough is enough. If the liberals in this body had their way, right now we would be spending $60 billion more.

UNIVERSAL HEALTH CARE

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

minute and to revise and extend his remarks.)

Mr. KUCINICH. Madam Speaker, it is long past the time since this Congress should be passing legislation to create a universal single-payer system of health care in the United States. This past week we saw General Motors cut $1 billion a year in health care expenses for 750,000 auto workers and retirees. People who have worked every day of their lives and made a contribution to this society are suddenly finding their health care benefits drastically reduced.

Over 40 million Americans do not have health insurance. Millions more cannot afford to pay health insurance because they are finding premiums, copays, and deductibles rising. It is time that the government stepped in dramatically to create a single-payer system. It is time that we realize that health care is a basic right in our society. It is time that we saw that we are already paying for universal health care. We are not getting it. One out of every four dollars goes for the activities of the for-profit system, for corporate profits, advertising, marketing, the cost of paperwork, 20 to 30 percent.

It is time that we stood up for the American people and for the health of our people and passed H.R. 676, a universal single-payer health care system.

□ 1015

FISCAL SANITY

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

Ms. FOXX. Madam Speaker, as a fiscal conservative, I rise today in relief that the Democrats have not been able to have their way with the Federal checkbook.

In fact, if they would have had their way with spending, a new report by the House Committee on Appropriations released yesterday shows they would have increased spending by more than $60 billion over the past 3 years.

Before our Nation faced the challenges of the recent hurricanes, our Nation was on track to produce more and our government was spending less. In fact, last year Congress held nonsecurity discretionary spending to a 1 percent growth rate, far below inflation and the previous 5-year average growth of 6 percent. And last year, Congress held nonsecurity discretionary spending to a 1.4 percent growth rate, less than inflation and a major reduction from previous years.

Democrats, on the other hand, have no plan to reduce the deficit. While they complain about budget deficits, they propose billions more in new spending. Their only answer is to raise taxes in order to have more money to spend. That is not good for the family checkbook or the American economy.

Madam Speaker, I ask my Democratic colleagues to join me in restoring fiscal sanity. In 1997 the House passed a deficit-reduction bill with 153 Democrat votes that saved billions. They should join us in a similar move now.

DISTORT THE TRUTH WEEK

(Ms. LINDA T. SÁNCHEZ of California asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LINDA T. SÁNCHEZ of California. Madam Speaker, it is Republican ''tort reform week'' in the House of Representatives. However, I think a more appropriate name would be ''distort the truth week.''

Two bills on this week's House calendar, the Personal Responsibility in Food Consumption Act and the Protection of Lawful Commerce in Arms Act unjustly slams the courthouse doors in the face of injured plaintiffs.

And why are we voting to shut the doors of courthouses to legitimate plaintiffs? So the Republican Party can give a gift to special interests and the fast food industry and the NRA. It is time to put a stop to this charade. If the goal is to prevent frivolous lawsuits, then punish the lawyers who file them. But if the goal is to give unscrupulous food companies and gun dealers free reign to make their products more dangerous, then by all means I urge my colleagues to support both bills.

However, my goal is to protect the American people, to ensure safe business practices in food production and in the gun industries and to preserve the integrity of our judicial system. That is why I am voting ''no'' on both the Personal Responsibility in Food Consumption Act and the Protection of Lawful Commerce in Arms Act. I urge my colleagues to do the same.

RESPONSIBLE SPENDING

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

Mr. PRICE of Georgia. Madam Speaker, if the Democrats were in charge, as they would like, they would increase our spending this year by tens of billions of dollars. In fact, over the last 3 years Democrats have attempted to bust the discretionary budget by more than $60 billion.

Where would we find the money for their additions for this astronomical amount? You know the answer because it is their answer to every single problem, higher taxes.

However, Republicans are looking for savings from other programs, not raising taxes on hard-working Americans. Being fiscally responsible is the only answer, not just spending more money. We have an obligation to the American people to restrain spending. If my colleagues on the other side of the aisle had their way, they would spend billions of dollars on programs that sound perfectly wonderful; but, frankly, that is what would be fiscally irresponsible and immoral.

My Republican colleagues and I realize the importance of fiscal restraint and financial responsibility, and we are working to find a solution that will not bury our children and grandchildren under mounds of debt. I urge my colleagues from across the aisle to join us in this responsible and moral initiative.

APRIL FOOL'S DAY COMES EARLY TO HOUSE

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

Mr. DEFAZIO. Madam Speaker, April Fool's Day has come early to the United States House of Representatives. The Republicans are in charge. They control everything, and in the last 5 years our debt has increased 60 percent to $8 trillion. That is $27,000 for every American. Well, not for every American, only for working Americans because the rich are exempt from taxes.

What they are talking about here, the hard-working Americans, the only people who got a pay raise last year, the people who earn over $1.3 million a year.

Madam Speaker, 99 percent of the people in this country had their real incomes go down last year, but not that group. That is who the Republicans want to protect here. It is trickle-down economics. They say we need it now more than ever. How else are we going to recover from Hurricane Katrina? They want to give the wealthiest among us, the top one-tenth of 1 percent, the millionaires, tax breaks, and they will trickle-down on America.

Well, the people of the Southeast have been trickled down upon. And, in fact, some of them drowned because of the incompetence of these people.

HONORING THE LIFE OF WILLIAM JENNINGS BRYAN DORN

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

Mr. BARRETT of South Carolina. Madam Speaker, a great South Carolinian, in fact a great American, William Jennings Bryan Dorn, passed away at the age of 89 on August 13, 2005. He represented the citizens of my district from 1947 to 1974, 13 terms, 26 years.

His list of accomplishments is long and impressive. Before coming to DC, he served as the youngest member of both the South Carolina House and the Senate, and was a proud veteran of World War II. During his service here on Capitol Hill, Dorn became chairman of the House Committee on Veterans Affairs, and a strong advocate of military personnel. He worked on several

pieces of legislation, primarily the GI bill, which has enabled countless veterans to get a college education.

On a more personal note, before he died I had an opportunity to spend some time with Representative Dorn and his family, a memory I will always cherish.

To the Dorn family, our prayers are with you as you grieve, and I thank you for sharing such a man of integrity with us.

WHAT IS PRESIDENT BUSH WAITING FOR?

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

Mr. FILNER. Madam Speaker, what is President Bush waiting for? It is now blatantly clear that the President's main political adviser, Karl Rove, and the Vice President's Chief of Staff, Scooter Libby, leaked a CIA agent's identity to the press.

Madam Speaker, 2 years ago at the beginning of the investigation, the President said, ''If there is a leak out of my administration, I want to know who it is.''

Today all the President will say is he will not comment on it until the investigation is over. If the President really wanted to know exactly how Rove and Libby were involved, he could walk down to their offices and demand that they answer him honestly.

There is simply no reason for President Bush to delay any longer. The American people and our CIA agents around the world need to be able to trust those with top security clearance. Let us not forget that both Rove and Libby continue to hold these clearances despite the ongoing investigation and all of the evidence pointing to their heavy involvement.

Madam Speaker, it is time for the President to take action. There is an ethical cloud hanging over the White House. It is unlikely that firing these two men will remove the cloud, but it is certainly a beginning. Instead of an administration of neo-cons, we apparently have an administration of just plain cons.

PREVENTING FISCAL DISASTER

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

Mr. HENSARLING. Madam Speaker, after Hurricane Katrina and Hurricane Rita, we must ensure that a great natural disaster of this generation does not turn into a great fiscal disaster for the next.

To pay for Federal hurricane relief, there are only one of three places that the money can come from: Raising taxes on the American people, passing even more debt on to our children, or to actually reduce the growth of Federal spending by reforming programs and prioritizing spending.

Democrats want to raise taxes and thus destroy jobs. They want to inflate the Federal budget and thus decimate the family budget.

They accuse us of being fiscally irresponsible, but every time we pass a budget, they offer a substitute that spends billions and billions more. They claim our budget policies hurt the poor, but we instead have reduced the ranks of the poor by helping create 4.1 million new jobs so families can increase spending on housing and health care. Compassion for the poor is measured by the number of jobs you create, not the number of government checks you write.

FLAWED REPUBLICAN BUDGET PRIORITIES

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

Ms. SCHAKOWSKY. Madam Speaker, it is obvious what the Republican talking points are today. If the Democrats were in charge, how we would increase spending and increase the debt. Well, guess what, Democrats were in charge and what happened, we ended up, after President Clinton left, with $5 trillion in surpluses, surpluses as far as the eye could see.

We had not the deficit, but actually a surplus in the yearly budget of $236 billion. And what has happened since? Madam Speaker, we are $8 trillion in debt. From $5 trillion surplus to $8 trillion in debt.

What happened to all those projected surpluses every year? Oh, the Republicans said that by 2005 we would have a $269 billion surplus in the budget. Forget it, it is $319 billion in debt.

So what are we talking about when we say fiscal responsibility? And how are they going to do it now, never mind the $200 billion for the war in Iraq, let us not charge for building Baghdad, let us cut spending so we can offset rebuilding Biloxi.

HISTORIC IRAQI ELECTIONS

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

Mr. STEARNS. Madam Speaker, over the weekend an historic day occurred in Iraq. Millions of Iraqis took another step toward democracy and turned out to vote for a new constitution.

While the final results will not be known until the end of this week, the large turnout of voters and the significantly fewer security incidents are, therefore, a sign that Iraq is on the way to democracy.

Close to 63 percent of the country's 15 million registered voters cast ballots, which is significantly more than turn out in the U.S. presidential elections.

Violent incidences were far less this election than in January. Perhaps contributing to the low levels of violence was the presence of Iraqi security forces themselves. These forces were up 35 percent since January to almost 200,000.

Finally, after years of oppression under Saddam Hussein, Iraqis were able to hold a truly fair, open election. Saturday was indeed an historic day.

HELPING THE WEALTHIEST FEW

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

Mr. PALLONE. Madam Speaker, 6 weeks ago all Americans saw the human face of poverty in the aftermath of Hurricane Katrina. President Bush vowed after the botched Federal response that the Federal Government would do everything it could to help those displaced in the gulf coast and to finally address the issue of poverty.

Well, 6 weeks later and the House Republican majority is already forgetting about America's most vulnerable. This week Republicans plan to cut Medicaid, higher education, food stamps, and possibly the earned income tax credit. These are programs that have helped the most vulnerable in our Nation.

Republicans will claim that their budget reconciliation bill is fiscally responsible and will cut the deficit, but that is simply not true. This budget actually raises the deficit, gives more tax breaks to the wealthy and makes matters worse for the victims of Hurricane Katrina. It only took Republicans 6 weeks to forget the images of Hurricane Katrina. They are once again putting the priorities of the wealthiest few ahead of working class Americans. It is now clear that Republicans learned absolutely nothing from Hurricane Katrina.

PROTECTING OUR BORDERS

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

Mr. CULBERSON. Madam Speaker, I want to thank the President of the United States for speaking out so forcefully yesterday with Secretary Chertoff and reiterating that they are determined to protect our borders and to prevent or stop the uncontrolled flood of illegal immigration into this country.

This is a law-and-order issue. I just returned form a visit to the Rio Grande River, and you do not need to go to Baghdad to see the war on terror. Nuevo Laredo is essentially a ghost town. Laredo is under siege. The largest inland port in the United States, Laredo, is in a state of war. It is besieged by narcoterrorists who are equipped with the very best weapons and best equipment.

The sheriff and the local authorities are outgunned and overmatched. Our Border Patrol is outgunned and overmatched.

Mr. President, thank you, sir. We need you, with the stroke of a pen, please reinforce the Border Patrol. Help our local law enforcement authorities defend the peace and prosperity of the United States or our way of life may, indeed, change.

Thank you, Mr. President. The American people are way beyond the tipping point in frustration and outrage at the unprotected borders and this flood of illegal immigration, and we are very grateful to you, sir, for stepping up to protect our borders.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. MILLER of Michigan). Members are advised to address their comments to the Chair and not to the President.

A SIGNIFICANT STEP TOWARDS DEMOCRACY IN IRAQ

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

Mr. KINGSTON. Madam Speaker, I want the previous speaker to know that I think I can get a Members tour for both of us to the White House if my friend wants to join me sometime. I will get back with the gentleman from Washington on that.

I want to say in Iraq this weekend, it was a historic and very significant day: over 60 percent voter turnout to adopt a new constitution; less violence than ever before on the election compared to June; greater participation by everybody, including the Sunni minority.

It is my hope that the constitution will pass and that in December we will have an election and the new government will take hold. And under that new government, their troops, of which we have trained 177,000, can start taking a bigger role in the war and then our troops can step back and draw down.

Last weekend was very significant. It is too bad the press is begrudgingly only covering good stuff when it comes to Iraq, but do not let the day go by without realizing its significance. A great election, great participation, less violence, a significant step towards democracy.

CANCELLATION OF LIBERAL RADIO SHARE ON AN UNBALANCED ARMED FORCES NETWORK

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

Ms. WATSON. Madam Speaker, today our troops abroad have very few choices when they turn on their radios. If they are looking for political talk on the Armed Forces Network, all they get is the conservative spin machine from Rush Limbaugh. That was all supposed to change on Monday when liberal radio talk show host Ed Schultz's show was set to debut.

However, 15 minutes before our soldiers could finally hear a differing opinion, the Pentagon abruptly cancelled the show. Ed Schultz's producer received a call from a Pentagon official informing him that the show would not be debuting on AFN.

Why exactly is the Pentagon keeping our troops from hearing differing opinions? Could it be that the Pentagon is a little embarrassed by the staging of a Presidential teleconference last week? We see the same staffer that informed Schultz of his cancellation was the same woman seen coaching American troops last week in what was supposed to be an unscripted conversation with our troops in Iraq. Schultz was critical of that stage show.

President Bush says our troops are fighting to bring democracy to Iraq. It would be nice if our own troops could exercise some of that freedom.

ANTI-TERRORISM INSURANCE

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

Mrs. MALONEY. Madam Speaker, our leaders are telling us on both sides of the aisle that terrorism is here to stay. If they believe that, if they know that, then why are we not preparing for it?

Anti-terrorism insurance passed this House after 9/11 and put this country on a stronger economic foundation, and it is set to expire this January. Businesses in my district are telling me that if their policies have expired since September, they cannot find coverage anywhere in the United States of America; they are seeking insurance in England.

Part of homeland security, part of being prepared or not is putting our economic policy in shape. And an important part of homeland security is anti-terrorism insurance. It is important to the economic foundation of this country. It is important to combating terrorism. We need to extend it. We need to do it now. The program expires in January.

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 554.

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

There was no objection.

PERSONAL RESPONSIBILITY IN FOOD CONSUMPTION ACT OF 2005

The SPEAKER pro tempore. Pursuant to House Resolution 494 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. 554.

□ 1036

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. 554) to prevent legislative and regulatory functions from being usurped by civil liability actions brought or continued against food manufacturers, marketers, distributors, advertisers, sellers, and trade associations for claims of injury relating to a person's weight gain, obesity, or any health condition associated with weight gain or obesity, with Mrs. MILLER of Michigan in the chair.

The Clerk read the title of the bill.

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

Under the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from North Carolina (Mr. WATT) each will control 30 minutes.

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

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

Madam Chairman, I rise in support of H.R. 554, the Personal Responsibility in Food Consumption Act of 2005.

The food service industry employs some 12 million people, making it the Nation's largest private sector employer. This vital sector of our economy has recently come under attack by lawsuits alleging it should pay monetary damages based upon legal theories holding it liable for the overconsumption of its products.

H.R. 554, the Personal Responsibility in Food Consumption Act, would correct this disturbing trend. Introduced by the gentleman from Florida (Mr. KELLER), this legislation would generally prohibit frivolous obesity- or weight gain-related claims against the food industry. It would, however, allow obesity-related claims to go forward in several circumstances, including cases in which a State or Federal law was broken and as a result a person suffered harm. Under H.R. 554, cases could go forward in which a company violates an expressed contract or warranty.

Also, because H.R. 554 applies only to claims based on weight gain or obesity, lawsuits could still proceed if, for example, someone gets sick from consuming tainted food.

This legislation passed the House of Representatives during the 108th Congress in the form of H.R. 339 with a large bipartisan vote of 276 to 139.

According to a recent Gallup Poll, ''Nearly nine in 10 Americans oppose holding the fast-food industry legally responsible for diet-related health problems of people who eat that kind of food on a regular basis . . . those who

describe themselves as overweight are no more likely than others to blame the fast-food industry for obesity-related health problems or to favor lawsuits against the industry.''

As one judge put it: ''If a person knows or should know that eating copious orders of supersized McDonald's products is unhealthy and may result in weight gain, it is not the place of the law to protect them from their own excesses.''

Even the Los Angeles Times has editorialized against such lawsuits, stating: ''If kids are chowing down to excess on junk food, aren't their parents responsible for cracking down? And if parents or other grown-ups overindulge, isn't it their fault, not that of the purveyors of fast food? . . . Why boost their food bills just because of legal jousting? People shouldn't get stuffed, but this line of litigation should.''

The threat posed to our national economy is clear. Personal injury attorney and obesity lawsuit litigator John Banzhaf said recently, ''You may not like it . . . but we'll find a judge. And then we'll find a jury'' that will find restaurants liable for their customers' overeating. According to news reports of a recent legal conference, a panel of four lawyers argued that the overweight lawsuit movement ''would need to extend beyond the obvious targets like restaurants, fast-food chains, and food manufacturers to bring about substantial policy changes . . . ''

Dr. Gerald Musante, a clinical psychologist who trained at Duke University Medical Center, has worked for more than 30 years with thousands of obese patients. He is the founder of the Structure House, a residential weight loss facility in Durham, North Carolina. Dr. Musante said the following at a hearing in the other body on this legislation: ''Through working with obese patients, I have learned that the worst thing one can do is to blame an outside force to get themselves 'off the hook,' to say it's not their fault and that they are a victim . . . Congress has rightly recognized the danger of allowing Americans to continue blaming others for the obesity epidemic. It is imperative that we prevent lawsuits from being filed against any industry for answering consumer demands.''

Even the chairman of the American Council for Fitness and Nutrition, Susan Finn, has written that ''if you're obese, you don't need a lawyer; you need to see your doctor, a nutritionist, and a physical trainer. Playing the courtroom blame game won't make anyone thinner or healthier . . . ''

Besides threatening to erode values of personal responsibility, the lawsuit campaign against the food industry threatens the separation of powers. Nationally coordinated lawsuits seek to accomplish through litigation what has not been achieved by legislation and the democratic process. As one mastermind behind the lawsuits against the food industry has stated, ''If the legislatures won't legislate, then the trial lawyers will litigate.''

Madam Chairman, the Personal Responsibility in Food Consumption Act will help preserve the separation of powers, support the principle of personal responsibility, and help protect the largest private sector employer in the United States. I urge all my colleagues to support this important legislation.

Madam Chairman, I reserve the balance of my time.

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

Madam Chairman, I rise in opposition to this legislation. And as I said the last time we debated it, I do not rise because I am a supporter of frivolous lawsuits or lawsuits even that some of the people have used the legal system to pursue. I rise in opposition to the bill because I think it is an overreaction; and, indeed, I think it is perhaps an ultimate attestation to the fact that many of my colleagues have lost confidence and faith in the legal system on the one hand or that, regardless of what the legal system does, if it does not yield for them the result that they are seeking, they are willing to compromise any principle that they have professed to stand for to achieve the result that they wish to achieve.

H.R. 554 goes much further than its stated purpose of banning the small handful of private suits brought against the food industry. It also bans suits for harm caused by dietary supplements and mislabeling, which have nothing to do with excess food consumption; and it would prevent State law enforcement officials from bringing legal claims to enforce their own consumer protection laws.

Simply look at the provisions of the bill. Section 4(5) would prevent any legal action related to any ''health condition that is associated with a person's weight gain or obesity.''

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As a result, the bill would prevent persons who develop heart disease and diabetes from dietary supplements such as Ephedra and Phen-fen from being able to obtain redress if they gained weight. Even worse, the bill bans these lawsuits in a retroactive way. So it would throw out dozens of Ephedra and Phen-fen cases currently pending before courts. This is a far cry from the concerns that led to this legislation originally, some of which I have the same concerns about.

H.R. 554 would also prevent State law enforcement officials from enforcing their own laws. Under section 4(3), the bill applies to legal actions brought by any ''person,'' and the term ''person'' is defined to include any ''governmental entity.'' That means States attorneys general will be prevented from pursuing actions for deceptive practices and false advertising and other practices that are illegal against the food industry.

Again, this is a vast departure from most of the so-called tort reform bills considered by the Congress, which are drafted to apply to private lawsuits, and is a vast departure from the original purpose of this bill and the problems it was designed to deal with.

Since the predecessor to H.R. 554 was first introduced last term, 18 State legislatures have enacted so-called cheeseburger laws to prohibit certain claims from their courts. While most of those enacted apply retroactively, others, that is, Kansas, Arizona, Colorado, do not. Some provide for a stay of discovery; others do not. Some establish affirmative defenses; others do not. That is our State law taking effect.

In short, in the considered judgment of each of these 18 State legislatures, laws have been enacted that best serve their States. The bill completely preempts those laws and brings to a screeching halt the work of 26 other States that have been working on pending legislation. It also disrupts the process in some States that have combined obesity bills with menu labeling requirements as part of their overall health enhancing legislative scheme.

What is the price that we are willing to pay to get the result that we are seeking? Have we lost confidence in our State and Federal court systems that have systematically thrown out most of the lawsuits that have been filed against the food industry using this ''fat theory,'' as it is commonly referred to? Have we lost confidence in our whole federalist form of government in which tort law has been particularly the province of the States? Have we lost confidence in our State legislatures that are in the middle of responding in their particular States to any problems that may be on the horizon in this area?

We have instead cast ourselves as the imperial Congress because the same people who came to this Congress, saying that they believe in States rights, have now shown they do not care about States rights. What they want is a result that they can control and they can dictate.

That is really what this bill is about, and it is unfortunately not only this bill. There is another bill right behind this one that will be up today or tomorrow that does the same thing in the gun context.

So I do not think we are going to hear a lot of people out here talking about this bill today. I do not see many people on the floor. It will be like a tree falling in the forest. We do not know whether it is having any impact out there or not. We will pass it out of here. It will become a political vehicle to cozy up to the food industry, but at what price? At what price?

I would just say the people who maintain that H.R. 554 is necessary to make people responsible for their own choices and to thwart the unwarranted imposition of legal costs and fees on the food industry are just not being upfront with us about this one.

This bill insulates an entire industry from liability; and more importantly,

it undermines our State judicial and legislative systems that should be and are in the process of dealing with this to the extent that they have identified it as a problem.

In that sense, the bill represents yet another arrogant attempt by this Congress to impose its will on the States, and I urge my colleagues to get a grip and understand what we are about to do here. There are some things that are more important, and our judicial system is working its way through these cases, is dismissing them where they need to be dismissed; and where that is not happening, our State legislatures are taking care of this problem. This is not a Federal issue, nor should it be.

I urge opposition to the bill.

Madam Chairman, I reserve the balance of my time.

Mr. SENSENBRENNER. Madam Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. CHABOT).

Mr. CHABOT. Madam Chairman, I am pleased to be a cosponsor of this legislation that will help curtail frivolous lawsuits. It is reassuring to see the Congress is taking measures to help rid our court system of lawsuits that are costly and hurt those consumers and businesses in our country. Twelve million people in this country are employed by businesses in the food industry, making it the Nation's largest private sector employer. This is an industry that has a direct impact on the Nation's economy, and these fast-food obesity lawsuits are opposed by nearly nine in 10 Americans.

The idea that holding the food industry liable for the excess of some individuals will combat obesity is unfounded. Individuals, not restaurants, are responsible for food choices that they make freely in their own daily lives.

In addition, the food addressed by this legislation is legal and unadulterated, and the rights of individuals to pursue lawsuits resulting from claims like the mislabeling of food or food safety issues is preserved. Our country has a history of providing its citizens with a safe and affordable food supply. It is unacceptable to make arguments that certain types of food that are sold in certain types of restaurants as a result of consumer demand are somehow dangerous and that the average consumer must bear the burden in higher food costs because of the overindulgence by some individuals who file these types of lawsuits.

This bill is not about whether fast food causes obesity. The bill is about self-responsibility.

Today, the Congress of the United States is saying to a select group of lawyers that laws are not intended to protect people from these types of excesses, from essentially eating too much, and the courtrooms were never meant for that reason. It is really pretty simple. If you eat too much, you get fat. It is your fault. Do not try to blame somebody else.

Mr. WATT. Madam Chairman, I yield 5 minutes to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. Madam Chairman, I thank the gentleman for yielding me time.

Madam Chairman, in addition to the violation of principles of federalism outlined by my colleague from North Carolina, this piece of legislation is another piece in which we are taking upon ourselves the right to try a case in the legislative branch instead of respecting the separation of powers by allowing cases to be tried in the judicial branch where they belong.

Instead of respecting separation of powers and honoring the rule of law and standing behind the principle that laws should be applied equally to all, we are once again giving special treatment to special cases.

The majority in Congress has apparently already decided the proper outcome of these cases and is adjusting the law accordingly just for these cases, rather than trusting our laws and our courts to hear evidence from both sides and decide the cases on their merits. If these are losing cases, then let the judicial process make that decision. Even if they are frivolous cases, the judicial branch has ways to sanction people for bringing frivolous cases; but once again, special interests are receiving, in these cases, special treatment.

Instead of having to go through the courts like everybody else, where they do not know the outcome of the case until evidence is presented and the law is applied, these defendants will get to try their cases in the legislative branch, where popularity and politics prevail. Even financial contributions are allowed.

Meanwhile, everyone else without special privileges is stuck trying their cases in the courts, where they have an unbiased judge and jury, instead of favorable politicians, and they are stuck with the same law that applies to everybody else.

This is not the only recent example of special treatment. Just a few months ago, we changed the law for Terri Schiavo because her parents knew how to reach someone in Congress; and we ignored the multitude of judicial decisions that had already been decided, and we changed the law for that case, not cases like that, just for that case.

A few years ago, in a child custody case in the Washington, DC, area that case was decided by special legislative language in a transportation appropriations bill. The Committee on Education and the Workforce likewise considered a case on appeal between the Department of Labor and a bank and voted to retroactively change the law to fix the result on behalf of the bank. Later today, as my colleague from North Carolina has pointed out, the House will probably pass legislation to fix the result in firearms legislation so that the firearms industry will get to try their cases and their issues in the legislative branch, rather than being stuck with the law that applies to everybody else.

Mr. Chairman, trying cases in the legislative branch is bad policy. We should honor the rule of law and apply the law in all cases. There will always be special interests, but we should not make special laws for those who can get to a Congressman to introduce a bill on their behalf. Let us honor and respect the rule of law to be applied equally to all and reject this legislation.

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the gentleman from Utah (Mr. CANNON).

Mr. CANNON. Mr. Chairman, I thank the gentleman from Wisconsin for the time.

Unfortunately, the food industry has been targeted by a variety of unfounded legal claims which allege businesses should pay monetary damages and be subject to equitable remedies based on novel legal theories of liability for the overconsumption of its legal products.

Obesity is a problem in America, but it is not evident that the availability of high-fat food or restaurants are the sole cause. A number of studies have shown that a lack of physical activity, that is, not exercising, has contributed to the rise of obesity and not solely one's caloric intake.

In the Subcommittee on Commercial and Administrative Law, which I chaired last Congress, we explored the threat the food industry and its workers face from frivolous litigation, the threat to personal responsibility posed by the proliferation of such litigation, and the need for passage of the Personal Responsibility in Food Consumption Act.

□ 1100

Since the gentleman from Florida (Mr. KELLER) introduced a similar bill last year, 21 States have passed laws banning these so-called obesity lawsuits.

The opponents of this bill will claim that this shows that Congress should not intervene. In reality, it means we must. Without a complete ban on these frivolous lawsuits, rogue trial lawyers, and I have many trial lawyers who are friends and who work very hard to get the appropriate kind of compensation for people who are injured, but many of these rogue trial lawyers will forum shop until they find a State and a district that gets them the exorbitant payday that they seek.

I would remind my colleagues that John Banzhaf, an attorney who testified last year against this bill, stated in 2003, ''Somewhere, there is going to be a judge and a jury that will buy this, and once we get the first verdict, as we did with tobacco, it will open the floodgates.''

It is unlikely that lawsuits against food establishments over their menus will make us healthier. Such lawsuits

will threaten thousands of jobs and, more importantly, such lawsuits send the wrong message regarding personal choices and personal responsibility. Do we want our kids growing up believing it is always someone else's fault?

Mr. Chairman, it is not only important, but also fundamental that Americans have access to courts to address their legitimate wrongs and the harms that they cause. The trial bar serves an invaluable purpose in helping average Americans gain rightful and proportionate compensation when harm is done. However, frivolous lawsuits such as the ones this legislation seeks to prevent serve only to undermine our legal system and those who truly need its protections and the moral fiber of Americans who should be self-reliant and responsible for their choices.

Mr. Chairman, I urge my colleagues to support the underlying bill, H.R. 554.

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

Mr. SENSENBRENNER. 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 strong support of H.R. 554, the Personal Responsibility in Food Consumption Act, and I thank the gentleman from Wisconsin for moving this legislation to the floor. This legislation will help prevent frivolous lawsuits that allege that the consumption of lawful food products caused injuries resulting from obesity or weight gain.

The food service industry employs some 11.7 million people, making it the Nation's largest employer outside of the government. However, this vital industry has recently come under attack by waves of lawsuits arguing that it should be liable for the misuse or ''over-consumption'' of its legal food products by others.

It is common sense that individuals should take responsibility for their own dietary and eating habits. Unfortunately, trial lawyers have ulterior motives for these lawsuits. They have made their intentions quite clear, calling the fast food industry the next tobacco. They estimate potential profits of $40 billion from obesity-related lawsuits. It is crucial that something be done to guard against these aggressive attacks.

These ill-conceived lawsuits require businesses to devote hard-earned dollars to litigate unmerited claims. In order to help ensure that America continues to be a good place to do business, and to help create and maintain American jobs, it is important that we not allow opportunistic trial lawyers to extort money from legitimate companies.

This bill also protects our Nation's farmers and ranchers from the potentially far-reaching effects of these lawsuits. American agriculture produces the safest, most affordable and abundant food supply in the world and should be protected from trial lawyers' attempts to reach as far up the food chain as possible with unfounded claims seeking unjust enrichment.

While preventing frivolous claims, this legislation would protect legitimate lawsuits. It would allow claims to go forward in several circumstances, including cases in which a State or Federal law was broken. Other types of food-related lawsuits not dealing with obesity would also be protected.

The American public understands the importance of this effort. According to a recent Gallup poll, almost 90 percent of Americans oppose holding restaurant owners responsible for the diet-related health problems of regular fast food consumers.

H.R. 554 is a common sense bill that will protect legitimate businesses from frivolous lawsuits, and I urge my colleagues to support this important legislation.

Mr. WATT. Mr. Chairman, I yield 5 minutes to the gentleman from Arkansas (Mr. SNYDER).

Mr. SNYDER. Mr. Chairman, I appreciate this discussion today. The points I want to make are really more in the spirit of questions. I come out of a State legislative body where the proponents of a bill such as the gentleman from Wisconsin would have to undergo a rigorous, almost cross-examination. We function here differently. But I do have some questions, and I think I will just present them in my comments and if somebody wants to comment on them they can.

I heard one of the previous speakers say, well, this is a simple bill. If you eat something and get fat, you should be responsible for it. I think that is the attitude of the great majority of Americans, that you should be responsible for what you eat. But I want to make two broad points.

First of all, I want to read the definition of food, and it refers to another section of code. It is very short. This is from section 201(f), 21 U.S.C. 301, section 201(f). ''The term 'food' means (1) articles used for food or drink for man or other animals, (2), chewing gum, and (3) articles used for components of any such article.''

So we are having a discussion here today about the fact, as the previous speaker had said, it is simple, you eat, you get fat, you should be responsible.

The problem is, this bill language makes no reference to only the caloric containing components of food. It is very deliberately written I believe to include all food additives, no matter how small amounts, and the fact that the great majority of food additives have zero caloric intake and would have no relationship to obesity, I think that is a flaw in the bill. That leads to the second point.

The bill specifically mentions weight gain and obesity. Well, I think most of us have a sense of what obesity is. Weight gain is a whole different issue, and weight gain may occur not from obesity, not from getting fat, not from putting on too many calories; weight gain can occur for a variety of medical reasons related to a variety of different causes.

For example, I mean probably all of us have had a mom or a grandmom or an uncle to whom we say, hey, I noticed your legs are swelling again. Fluid retention. Fluid retention. Now, that can be from a variety of causes. That is not from increased caloric intake. That could have been, for example, from a food additive, maybe a cause that was not known to the public of some kind of additive in something that they had eaten or drank. It may have been something that interfered with one of their medications and led to fluid retention. I am just making up hypotheticals here. Or, the hypothetical, perhaps you have something that is actually a heart poison from some food additive that has no calories in it, zero calories in it, but over a period of time does bad things to the ability of your heart to function. The pump does not work so well, you start having fluid retention. What happens? You put on weight. As a family doctor, one of the reasons when you go in, I would weigh people, as you want to see what is going on with their fluid status. That is weight gain.

Under this bill, which I believe is so broadly written, it would include those kinds of situations. The word ''calorie'' or ''caloric intake'' or ''caloric content'' is nowhere in this bill, and I again refer my colleagues, it is not in the bill itself, you have to go to the code, the term ''food'' means, articles used for food or drink for man or other animals, chewing gum, and articles used for components of any such article.

Anything you drink, anything in it, regardless of caloric intake, is covered by this bill. Anything that leads to weight gain is covered by this bill, even if it has nothing to do with caloric intake. I think that is far abroad. I think this is probably one of the reasons why it died in the Senate and will die again, but I would encourage people to look at these kinds of details if there is intent to move this bill forward.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. MURPHY).

Mr. MURPHY. Mr. Chairman, I thank the chairman for yielding me this time.

Mr. Chairman, opponents of this legislation have said we do not need this bill. They said, we need a debate on health care, and I am pleased to engage in that debate. I am reminded of the book that talks about everything I need to know in life I learned in kindergarten. I have learned a few things here.

Lawsuits do not lower obesity rates. Lawsuits do not improve the nutrition habits of children. Lawsuits do not reduce the $127 million annual medical costs that our Nation incurs on obesity-related conditions in children and the increase in obesity rates.

Mr. Chairman, parents need to teach their children at early ages to eat healthy meals and to establish exercise routines for their families. School districts need to make sure they have gym classes and serve the right kinds of food as an option. Proper diet and exercise will help reduce medical complications that are increasingly common in children, such as hypertension, diabetes, high cholesterol, and heart disease which were once found almost exclusively in adults.

In my years working as a psychologist and oftentimes consulting with courts, I have yet to find a court that can replace a parent. When will we learn we cannot litigate compassion, we cannot mandate common sense, and we certainly cannot legislate personal responsibility.

H.R. 554 will do more than restrict lawsuits against food and manufacturers for weight-related cases. It forces us to take personal responsibility for ourselves and our families and put a priority on establishing healthy lifestyles.

Here are the facts. If you touch a flame, you are going to get burned. If you eat a lot and do not exercise, you are going to gain weight. We need to take personal responsibility for that.

The bill before us directly protects individual freedoms of all Americans from a tiny minority who try to exploit the legal system for personal gain. I strongly support H.R. 554, and I commend the chairman for his work.

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

This is where I think we are. Some of us are frustrated by some of the litigation that has taken place in this area. I said it when we debated this bill the last time on the floor. I am not a fan of fat litigation either, but sometimes we have to be patient enough in a legislative body to let the institutions that are supposed to work, work. They are working. Most of the lawsuits that have been filed in this area have been dismissed. Most of them have been dismissed. That is what the courts are for. We do not always get the result we want, but the courts are there to make a determination of what results are appropriate and not under the laws that exist.

The State legislatures are responding. Mr. Chairman, there are 26 pending laws out there in the States. A number of them have different components, different nuances. Some of them are retroactive, some of them are not. Whatever happened to our belief that the State legislatures, the States are a laboratory of good legislation? I thought that is what my colleagues who are supporting this bill believed in more heartily than anything else they came to Congress to talk about. When it is convenient for them, when it is convenient for them, there is no more important mantra to them than the mantra of States rights. What are we doing to States rights here, in an area that throughout history has been the province of the States?

I do not understand. We cannot be so intent on getting a particular result, so results-oriented that we disregard everything that we have set up in place to deal with problems of this kind: Our judiciary, our State legislatures, our common sense.

Mr. SCHWARZ of Michigan. Mr. Chairman, I rise today in strong support of H.R. 554, the Personal Responsibility in Food Consumption Act.

As a physician, and just as someone who can read the data, I can tell you that we have an epidemic of obesity in this country. Obesity is a serious health problem, with very serious consequences.

The most important step we can take to curb obesity is to impart to everyone in this country that obesity can be controlled when we take personal responsibility. A healthy and consistent diet, with an adequate amount of exercise, will work wonders. That's the simple truth.

We must get away from the notion there is anything remotely approaching a quick fix to obesity. Maintaining a healthy lifestyle requires a life-long dedication to one's own well-being. A lawsuit will not help anyone lose weight. Allowing consumers to sue their local restaurant, to sue half the food industry, means that we are telling our citizens, "It's not your fault that you are obese."

Mr. Chairman, that's the wrong tack to take. I support this legislation because it sends the message to everyone in the United States, young and old, that taking control of your weight is your responsibility, and taking personal responsibility is the only way that weight control can be achieved.

I commend the gentleman from Florida, Mr. KELLER, and Chairman SENSENBRENNER, for their work on this legislation, and I urge passage of the bill.

Mr. PAUL. Mr. Chairman, Congress is once again using abusive litigation at the State level as a justification nationalizing tort law. In this case, the Personal Responsibility in Food Consumption Act (H.R. 554) usurps State jurisdiction over lawsuits related to obesity against food manufacturers.

Of course, I share the outrage at the obesity lawsuits. The idea that a fast food restaurant should be held legally liable because some of its customers over indulged in the restaurant's products, and thus are suffering from obesity-related health problems, is the latest blow to the ethos of personal responsibility that is fundamental in a free society. After all, McDonalds does not force anyone to eat at its restaurants. Whether to make Big Macs or salads the staple of one's diet is totally up to the individual. Furthermore, it is common knowledge that a diet centering on super-sized cheeseburgers, French fries, and sugar-filled colas is not healthy. Therefore, there is no rational basis for these suits. Some proponents of lawsuits claim that the fast food industry is "preying" on children. But isn't making sure that children limit their consumption of fast foods the responsibility of parents, not trial lawyers? Will trial lawyers next try to blame the manufacturers of cars that go above 65 miles per hour for speeding tickets?

Congress bears some responsibility for the decline of personal responsibility that led to the obesity lawsuits. After all, Congress created the welfare state that popularized the notion that people should not bear the costs of their mistakes. Thanks to the welfare state, too many Americans believe they are entitled to pass the costs of their mistakes on to a third party—such as the taxpayers or a corporation with "deep pockets."

While I oppose the idea of holding food manufacturers responsible for their customers' misuse of their products, I cannot support addressing this problem by nationalizing tort law. It is long past time for Congress to recognize that not every problem requires a Federal solution. This country's founders recognized the genius of separating power among Federal, State, and local governments as a means to maximize individual liberty and make government most responsive to those persons who might most responsibly influence it. This separation of powers strictly limits the role of the Federal Government in dealing with civil liability matters; and reserves jurisdiction over matters of civil tort, such as food related negligence suits, to the State legislatures.

Finally, Mr. Chairman, I would remind the food industry that using unconstitutional Federal powers to restrict State lawsuits makes it more likely those same powers will be used to impose additional Federal control over the food industry. Despite these lawsuits, the number one threat to business remains a Federal government freed of its Constitutional restraints. After all, the Federal government imposes numerous taxes and regulations on the food industry, often using the same phony "pro-consumer" justifications used by the trial lawyers. Furthermore, while small business, such as fast-food franchises, can move to another State to escape flawed State tax, regulatory, or legal policies, they cannot as easily escape destructive Federal regulations. Unconstitutional expansions of Federal power, no matter how just the cause may seem, are not in the interests of the food industry or of lovers of liberty.

In conclusion, while share the concern over the lawsuits against the food industry that inspired H.R. 554, this bill continues the disturbing trend of federalizing tort law. Enhancing the power of the Federal government is in no way in the long-term interests of defenders of the free market and Constitutional liberties. Therefore, I must oppose this bill.

Mr. HENSARLING. Mr. Chairman, I rise today in support of H.R. 554, the Personal Responsibility in Food Consumption Act.

You may have heard about the overweight maintenance worker from New York, who sued McDonald's, Wendy's, Burger King, and KFC for causing his two heart attacks and diabetes. Or the class-action lawsuit against McDonald's where the lawyers named children as the defendants.

These stories may sound funny, but the facts show these types of frivolous lawsuits bankrupt businesses, deplete pensions, gouge consumers and deprive Americans with real complaints access to their day in court.

American consumers actually pay $1,200 more for goods and services every year because of lawsuit abuse. Studies also found that the cost of litigation accounts for one-third of the price of an 8-foot aluminum ladder, it doubles the price of a football helmet, it adds $500 to the sticker price of a new car, and increases the cost of a pacemaker by $3,000. We all end up paying a huge price for lawsuit abuse.

But perhaps the most potentially disastrous effect of frivolous lawsuits is the cost of American jobs. American businesses are a consistent target of frivolous claims, which bleed the essential capital they need to create jobs. And with such a lawsuit happy nation, many companies simply choose to pack up shop and move overseas.

At what point will we say enough is enough? At what point will we start supporting personal responsibility and stop supporting personal injury lawyers?

Options on a menu do not lead to obesity, but unhealthy habits do. At what point are we going to stop the frivolous lawsuits from personal injury trial lawyers that are simply trying to make an easy buck off of overweight Americans?

Mr. Chairman, I urge all my colleagues to pass H.R. 554. Let's take a stand for personal responsibility and freedom. Let's stamp out frivolous lawsuits. Let's preserve the integrity of our judicial system, and let's stop personal injury trial lawyers from ripping off American consumers.

Mr. HONDA. Mr. Chairman, I rise today to express my concern that we are again dealing with a notion that there is a crisis in our courts with obesity lawsuits. H.R. 554, the so-called "Personal Responsibility in Food Consumption Act" is a measure that seeks to give federal immunity to food manufacturers, sellers, and advertisers for obesity-related claims. The reality is there is only one such pending suit in the entire country, so I am hard pressed to see why we need to take up this measure today, especially since there are so many other important issues we need to address.

I do not think it is the role of the United States Congress to intervene in every individual and private issue in America. Our Nation is plagued by childhood obesity and heart disease, and we should be looking into real solutions to this problem, we should not be focusing our efforts on getting rid of one lawsuit currently pending against a fast food outlet.

Furthermore, the language in H.R. 554 is so broad it would cut off legitimate claims against the food industry, even where the industry acted to deceive the public and even where it violated State or Federal law. For instance, those in the food industry who fraudulently or deceptively market or sell low-fat products that are not really low-fat should be held accountable but this measure would let them off the hook. Lawsuits aimed at unscrupulous tactics help to change the behavior of the bad actors in the industry we should allow our legal system to process these legitimate cases.

Mr. Chairman, our legal system has multiple procedural safeguards to ensure that frivolous litigation is thrown out and that meritorious claims are preserved. That is why I oppose H.R. 554.

Mr. STARK. Mr. Chairman, I rise in opposition to the Personal Responsibility in Food Consumption Act because I don't think that any industry should have the right to conduct its business without the oversight of the judicial system. What the lawyer-bashers don't want you to know is that frivolous lawsuits, by definition, get thrown out of court. In other words, the much-feared million-dollar settlement for someone who eats 12 Big Macs a day is not going to happen.

That's why there are only a few obesity cases in court right now and why the only reason we're considering this bill today is because the well-heeled McDonald's Corporation doesn't want to face a legitimate lawsuit for false advertising. Many of the pending cases are for false advertising, claiming food is low fat when it's really not, and this bill is so broadly worded that it would preclude such cases from going forward.

The threat of legitimate lawsuits against fast-food corporations is as much a part of creating social change as is the threat of a Congressional investigation. I believe that both are equally legitimate and democratic. We wouldn't want judges to ban us from holding hearings and nor should we ban them from hearing cases

Even more important than the issue of obesity or Congressional meddling in the judicial branch is the fundamental right of every American to have their day in court. Even if you eat 12 Big Macs a day, you have a right to plead your case before a judge. And the judge has the right to throw the case out, but Congress has no business preemptively closing the courthouse doors to a particular group of Americans.

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

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

The Acting CHAIRMAN (Mr. PUTNAM). All time for general debate has expired.

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

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

H.R. 554

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 ''Personal Responsibility in Food Consumption Act of 2005''.

SEC. 2. FINDINGS; PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the food and beverage industries are a significant part of our national economy;

(2) the activities of manufacturers and sellers of foods and beverages substantially affect interstate and foreign commerce;

(3) a person's weight gain, obesity, or a health condition associated with a person's weight gain or obesity is based on a multitude of factors, including genetic factors and the lifestyle and physical fitness decisions of individuals, such that a person's weight gain, obesity, or a health condition associated with a person's weight gain or obesity cannot be attributed to the consumption of any specific food or beverage; and

(4) because fostering a culture of acceptance of personal responsibility is one of the most important ways to promote a healthier society, lawsuits seeking to blame individual food and beverage providers for a person's weight gain, obesity, or a health condition associated with a person's weight gain or obesity are not only legally frivolous and economically damaging, but also harmful to a healthy America.

(b) PURPOSE.—The purpose of this Act is to allow Congress and regulatory agencies to determine appropriate laws, rules, and regulations to address the problems of weight gain, obesity, and health conditions associated with weight gain or obesity.

SEC. 3. PRESERVATION OF SEPARATION OF POWERS.

(a) IN GENERAL.—A qualified civil liability action may not be brought in any Federal or State court.

(b) DISMISSAL OF PENDING ACTIONS.—A qualified civil liability action that is pending on the date of the enactment of this Act shall be dismissed immediately by the court in which the action was brought or is currently pending.

(c) DISCOVERY.—

(1) STAY.—In any action that is allegedly of the type described in section 4(5)(B) seeking to impose liability of any kind based on accumulative acts of consumption of a qualified product, the obligation of any party or non-party to make disclosures of any kind under any applicable rule or order, or to respond to discovery requests of any kind, as well as all proceedings unrelated to a motion to dismiss, shall be stayed prior to the time for filing a motion to dismiss and during the pendency of any such motion, unless the court finds upon motion of any party that a response to a particularized discovery request is necessary to preserve evidence or to prevent undue prejudice to that party.

(2) RESPONSIBILITY OF PARTIES.—During the pendency of any stay of discovery under paragraph (1), the responsibilities of the parties with regard to the treatment of all documents, data compilations (including electronically recorded or stored data), and tangible objects shall be governed by applicable Federal or State rules of civil procedure. A party aggrieved by the failure of an opposing party to comply with this paragraph shall have the applicable remedies made available by such applicable rules, provided that no remedy shall be afforded that conflicts with the terms of paragraph (1).

(d) PLEADINGS.—In any action that is allegedly of the type described in section 4(5)(B) seeking to impose liability of any kind based on accumulative acts of consumption of a qualified product, the complaint initiating such action shall state with particularity—

(1) each element of the cause of action;

(2) the Federal and State statutes or other laws that were allegedly violated;

(3) the specific facts alleged to constitute the claimed violation of law; and

(4) the specific facts alleged to have caused the claimed injury.

(e) RULE OF CONSTRUCTION.—No provision of this Act shall be construed to create a public or private cause of action or remedy.

SEC. 4. DEFINITIONS.

In this Act:

(1) ENGAGED IN THE BUSINESS.—The term ''engaged in the business'' means a person who manufactures, markets, distributes, advertises, or sells a qualified product in the person's regular course of trade or business.

(2) MANUFACTURER.—The term ''manufacturer'' means, with respect to a qualified product, a person who is lawfully engaged in the business of manufacturing the product.

(3) PERSON.—The term ''person'' means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity, including any governmental entity.

(4) QUALIFIED PRODUCT.—The term ''qualified product'' means a food (as defined in section 201(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(f))).

(5) QUALIFIED CIVIL LIABILITY ACTION.—

(A) IN GENERAL.—Subject to subparagraph (B), the term ''qualified civil liability action'' means a civil action brought by any person against a manufacturer, marketer, distributor, advertiser, or seller of a qualified product, or a trade association, for damages, penalties, declaratory judgment, injunctive or declaratory relief, restitution, or other relief arising out of, or related to a person's accumulated acts of consumption of a qualified product and weight gain, obesity, or a health condition that is associated with a person's weight gain or obesity,

including an action brought by a person other than the person on whose weight gain, obesity, or health condition the action is based, and any derivative action brought by or on behalf of any person or any representative, spouse, parent, child, or other relative of that person.

(B) EXCEPTION.—A qualified civil liability action shall not include—

(i) an action based on allegations of breach of express contract or express warranty, provided that the grounds for recovery being alleged in such action are unrelated to a person's weight gain, obesity, or a health condition associated with a person's weight gain or obesity;

(ii) an action based on allegations that—

(I) a manufacturer or seller of a qualified product knowingly violated a Federal or State statute applicable to the marketing, advertisement, or labeling of the qualified product with intent for a person to rely on that violation;

(II) such person individually and justifiably relied on that violation; and

(III) such reliance was the proximate cause of injury related to that person's weight gain, obesity, or a health condition associated with that person's weight gain or obesity; or

(iii) an action brought by the Federal Trade Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.) or by the Federal Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

(6) SELLER.—The term ''seller'' means, with respect to a qualified product, a person lawfully engaged in the business of marketing, distributing, advertising, or selling a qualified product.

(7) STATE.—The term ''State'' includes each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States, and any political subdivision of any such place.

(8) TRADE ASSOCIATION.—The term ''trade association'' means any association or business organization (whether or not incorporated under Federal or State law) that is not operated for profit, and 2 or more members of which are manufacturers, marketers, distributors, advertisers, or sellers of a qualified product.

The Acting CHAIRMAN. No amendment to the committee amendment is in order except those printed in House Report 109–249. 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, equally divided and controlled by the proponent and an opponent of the amendment, 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 109–249.

□ 1115

AMENDMENT NO. 1 OFFERED BY MR. SENSENBRENNER

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

The Acting CHAIRMAN (Mr. PUTNAM). The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. SENSENBRENNER:

Page 4, line 8, strike ''(B)''.

Page 5, line 9, strike ''(B)''.

Page 5, line 12, insert ''for each defendant and cause of action'' before the dash.

Page 5, line 13, insert ''and the specific facts alleged to satisfy each element of the cause of action'' before the semicolon.

Page 5, line 15, strike ''were allegedly violated;'' and insert ''allegedly create the cause of action; and''.

Page 5, line 16, strike ''the specific facts'' and all that follows through the end of line 19 and insert ''the section 4(5)(B) exception being relied upon and the specific facts that allegedly satisfy the requirements of that exception.''.

The Acting CHAIRMAN. Pursuant to House Resolution 494, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from North Carolina (Mr. WATT) each will control 5 minutes.

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

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

Mr. Chairman, this manager's amendment makes technical changes to the section of the bill that sets forth the information plaintiffs must provide in order for a judge to determine whether the lawsuit is banned by the bill or allowed to go forward under one of the bill's exceptions.

These minor changes are meant to provide a judge with a clear understanding of the type of information the judge is to consider in deciding a motion to dismiss under H.R. 554.

The pleading provision in H.R. 554 is meant to apply to any action claiming obesity-related damages, and this amendment makes clear that the pleading requirements will apply to all cases seeking obesity-related damages.

Also adding the phrase ''for each defendant and cause of action'' clarifies that a judge must apply H.R. 554's pleading requirements to each specific claim. This prevents a plaintiff from improperly using a claim that is not barred by H.R. 554 as a means of pursuing obesity-related claims that are barred by the bill against the same or other defendants. This change would prevent entire industries from being ensnared in lawsuits where the relevant facts relate to only one company.

Finally, other technical changes would simply ensure consistency by using the same terms in the pleading sections as are used elsewhere in the bill.

I would ask all of my colleagues to support these common sense, technical amendments.

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

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

Mr. Chairman, normally when we see a manager's amendment come to the floor, it is an improving amendment. Unfortunately this one makes a bad bill actually worse than it was originally drawn, and it does so in this way. There are already pleading requirements in every State, and basically what this amendment does is make those pleading requirements higher for the food industry than for anybody else in America. And, in essence, where you end up is that lawyers who represent people who are claiming to have a cause of action are not only now, under this language, called upon to represent their clients and make a reasonable effort to determine whether there is a basis for their claim, they have to be the jury also. They have to go out and decide, are there enough facts here on each and every cause of action against each and every defendant to win this case and win it profoundly. They have to allege specific facts.

I mean, that is the kind of stuff that normally gets done at a trial if a case even gets that far. Most of these cases are being dismissed really. So most of them are not going to get that far anyway.

But I am not sure what role discovery or any other aspect of our legal process is playing anymore if we pass this manager's amendment. This is much, much more than a technical amendment. This is a very substantive amendment. And, unfortunately, I think it makes a bill that is already a very, very bad bill, it makes it a very, very, very bad bill. I oppose this amendment.

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

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

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

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider amendment No. 2 printed in House Report 109–249.

AMENDMENT NO. 2 OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Ms. JACKSON-LEE of Texas:

Page 6, line 24, insert after ''trade association,'' the following: ''or a civil action brought by a manufacturer or seller of a qualified product, or a trade association, against any person,''.

The Acting CHAIRMAN. Pursuant to House Resolution 494, the gentlewoman from Texas (Ms. JACKSON-LEE) and the gentleman from Utah (Mr. CANNON) each will control 5 minutes.

The Chair recognizes the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me thank my distinguished ranking member of the subcommittee, the gentleman from North Carolina (Mr. WATT) both for his kindliness and his astuteness.

Let me thank the chairman of the full committee, the gentleman from Wisconsin (Mr. SENSENBRENNER), and the ranking member of the full committee, the gentleman from Michigan

(Mr. CONYERS), which gives me a chance to catch my breath.

We were in a Homeland Security hearing which is going on, as many of my colleagues know, assessing the circumstances with Hurricane Rita and Hurricane Katrina.

I know the gentleman from Wisconsin (Mr. SENSENBRENNER) is well aware of great intention in our committee to always work together, and so I offer this amendment recognizing that my colleagues will consider this as an opportunity to work together.

One could argue that in the backdrop of Hurricane Wilma now reaching a Category 5, that this Congress should be addressing many, many other issues, particularly enhanced funding for homeland security, and, of course, how we can do things better.

This legislation that is before us needs to be improved. My amendment would prohibit the food industry, which enjoys broad immunity under this bill, from initiating lawsuits against any person for damages or other relief due to injury or potential injury based on a person's consumption of a qualified product, and weight gain, obesity, or any health condition that is associated with a person's weight gain or obesity.

In essence, this is an amendment to protect against consumer retaliation. My colleagues realize that this particular bill, whether or not it rises to the level of a national crisis or even needs fixing, really immunes, if you will, the vast fast food industry.

Now, those of us who have raised children during this timeframe will never know until the final tests are in, studies are done 10 and 20 years from now, as to whether or not the eating of fast food that many of us took our young children to for play and excitement, is going to be long-lasting in its damage.

But yet we believe that this industry now needs a blanket protection from those who may be negatively impacted, obesity, weight gain or any other health problems. Yet there is no similar protection against consumers who may desire to petition these grievances.

It allows the industry to willy-nilly and randomly sue consumers. This amendment is necessary to ensure that the public debate on the health and nutritious effects of mass-marketed food and products is not completely quelched by this bill.

In 1996, Oprah Winfrey was sued under my home State's food disparagement laws by the beef industry for comments she made following the first mad cow scare this country witnessed, albeit she was denied her first amendment rights.

After years of litigation in my State, transfer of her television show to Texas and expenditure of over $1 million, Ms. Winfrey prevailed at trial and on appeal. Proponents of this bill assert that the food industry will incur significant costs defending frivolous lawsuits.

They took Ms. Winfrey to court, the trial lawyers, but neglect the straggering costs that may be borne by private citizens should they dare question the health effects of any qualified food product under this bill. Where are the first amendment rights and consumer rights? My amendment ensures that what is good for the geese is good for the gander. Those advancing healthy diets by discouraging the consumption of certain foods, their right, their constitutional right, even though I come from a beef State, because of their adverse effects perceived on a person's health and weight gain, should not be subjected to litigation from the food industry while it stands immunized from any accountability under this bill.

Again, I wish we were on the floor talking about restoring the drastic cuts in the budget reconciliation bill that deal with health care and deal with housing and deal with the various issues of education and special grants to help the least of those, but we are on the floor talking about McDonald's and Burger King, certainly friends of young parents who, through their professions and other responsibilities did a lot of eating at Burger King and McDonald's, but it does not in any way give them the privilege of denying consumer rights and the rights of consumers not to be retaliated against because they have expressed their viewpoint and the rights of the first amendment.

I do not recall any hue and cry in this body during or in the aftermath against Ms. Winfrey to ban food liability suits. The system worked. But if we are to end the public's right to a jury trial on issues of food safety, we cannot end the public's right to freedom of speech by leaving food critics, who play an important role in educating the public, as I close, stimulating positive change on good sound eating habits.

I ask my colleagues to support this amendment.

Mr. Chairman, this amendment would prohibit the food industry—which enjoys broad immunity under this bill—from initiating lawsuits against any person for damages or other relief due to injury or potential injury based on a person's consumption of a qualified product and weight gain, obesity, or any health condition that is associated with a person's weight gain or obesity.

This amendment is necessary to insure that the public debate on the health and nutritious effects of mass marketed food products is not completely squelched by this bill.

In 1996, Oprah Winfrey was sued under my home State's "food disparagement" laws by the beef industry for comments she made following the first "Mad cow" scare this country witnessed. After years of litigation, transfer of her television show to Texas, and an expenditure of over one million dollars, Ms. Winfrey prevailed at trial and on appeal.

Proponents of this bill assert that the food industry will incur significant cost defending "frivolous" lawsuits by the trial lawyers, but neglect the staggering costs that may be borne by private citizens should they dare question the health effects of any "qualified food product" under this bill.

My amendment insures that what's good for the geese is good for the gander. Those advancing healthy diets by discouraging the consumption of certain foods because of their adverse effects on a person's health and weight gain should not be subject to litigation from the food industry while it stands immunized from any accountability under this bill.

I don't recall any hue and cry in this body during or in the aftermath of the lawsuit against Ms. Winfrey to ban food libel laws. The system worked. But if we are to end the public's right to a jury trial on issues of food safety, we cannot end the public's right to freedom of speech by leaving food critic who play an important role in educating the public, stimulating positive change, and promoting sound eating habits open to lawsuits from an immunized industry.

This amendment addresses this concern and insures that every American can engage in or has access to an open and honest debate on matters of public health.

Once again, Mr. Chairman, I urge my colleagues to support my amendment.

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

Mr. Chairman, the amendment was defeated last year on the floor by voice vote. It should be defeated again this year. This amendment would add to the list of qualified civil liability actions that cannot be brought under the bill, civil actions brought by a manufacturer or seller of a qualified product or trade association against any person for obesity-related claims.

Whatever the rhetorical purpose the sponsor of this amendment seeks to accomplish, it should be defeated because it is badly drafted, and in the context of the bill, its application would be nonsensical. The bill only operates to prohibit lawsuits brought by people because they ate too much and got fat.

The amendment would add corporations to the list of those who cannot sue because they got fat. But whatever the intent of the amendment is, the fundamental problem is that corporations cannot gain weight and suffer from obesity, which is the term used in the bill. A corporation, for example, cannot eat too much and a trade association cannot gain weight over the holidays.

For all of these reasons this amendment should be defeated.

Mr. Chairman, I yield the balance of my time to the gentleman from Texas (Mr. SMITH).

Mr. SMITH of Texas. Mr. Chairman, I oppose this amendment but support the underlying bill, H.R. 554, the Personal Responsibility in Food Consumption Act.

It is an important piece of legislation that continues a series of tort reform measures considered in Congress this year. We passed this bill during the 108th Congress, and we should pass it again today. I am an original cosponsor of H.R. 554, which will prevent a few lawyers from seeking to destroy another industry that employs millions of people and provides a welcome service to individuals who choose to use it.

In general, the bill prohibits weight gain related claims against the food industry. It allows such claims only

where a person gained weight as a result of the food industry breaking a State or Federal law. I remember in 2002, when individuals filed a lawsuit against McDonald's alleging that the fast food chain had made them overweight and unhealthy.

I remember thinking that people should take responsibility for their own eating habits. But it is no longer just one suit against one company. Now there are suits against all types of the 900,000 restaurants in the food industry from small local eateries to giant fast food chains.

We must set a limit as to what litigation is allowed. A nonfrivolous claim should proceed, but a suit dictating the food choices of Americans should be stopped before it is even filed.

The reality is that restaurant meals will change according to what people prefer to eat. In recent years we have seen fast food chains add more healthy choices, like salad and fruit, to their menus, but people should have the freedom to eat what they want.

□ 1130

Mr. Chairman, we should encourage personal responsibility and healthy eating in our society, but we should not encourage lawsuits that blame others for our own choices and that could bankrupt entire industries. Because Americans should have the freedom to eat what they want and because we should take responsibility for our own actions, I support the passage of the Personal Responsibility in Food Consumption Act.

Mr. CANNON. Mr. Chairman, how much time remains?

The Acting CHAIRMAN (Mr. PUTNAM). The gentleman from Utah has 2 minutes remaining.

Mr. CANNON. Mr. Chairman, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I simply ask the question, in this bill consumers are left vulnerable, and I would ask the gentleman would he not work with me in this amendment to ensure that they are not left vulnerable as we are protecting our fast-food industry?

Mr. CANNON. Mr. Chairman, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Utah.

Mr. CANNON. I am not sure when we would work together on the amendment. I suppose perhaps in conference we could work on the issue, but I am loath to commit the chairman to that process.

Ms. JACKSON-LEE of Texas. I thank the gentleman. I just want to acknowledge that the bill does not protect consumers, and I ask Members to support my amendment.

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

The Acting CHAIRMAN. The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE).

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

Ms. JACKSON-LEE of Texas. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE) will be postponed.

The Acting CHAIRMAN. The Committee will rise informally.

The SPEAKER pro tempore (Mr. TERRY) assumed the Chair.

MESSAGE FROM THE SENATE

A 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. 1886. An act to authorize the transfer of naval vessels to certain foreign recipients.

The SPEAKER pro tempore. The Committee will resume its sitting.

PERSONAL RESPONSIBILITY IN FOOD CONSUMPTION ACT OF 2005

The Committee resumed its sitting.

The Acting CHAIRMAN (Mr. PUTNAM). It is now in order to consider amendment No. 3 printed in House Report 109–249.

AMENDMENT NO. 3 OFFERED BY MR. FILNER

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

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. FILNER:

At the end of the bill, add the following new section:

SEC. ___. LIMITATION.

Notwithstanding any other provision of this Act, this Act does not apply to an action brought by, or on behalf of, a person injured at or before the age of 8, against a seller that, as part of a chain of outlets at least 20 of which do business under the same trade name (regardless of form of ownership of any outlet), markets qualified products to minors at or under the age of 8.

The Acting CHAIRMAN. Pursuant to House Resolution 494, the gentleman from California (Mr. FILNER) and the gentleman from Utah (Mr. CANNON) each will control 5 minutes.

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

Mr. FILNER. Mr. Chairman, the purpose of this amendment today is twofold: one, to protect young children and, two, to force better accountability from the fast food industry.

My amendment exempts those 8 years of age and under from the provisions of this bill as it relates to fast food restaurants.

Mr. Chairman, in 2001 the U.S. Surgeon General proclaimed childhood obesity a health issue rivaling cigarette smoking. The Surgeon General further stated that the rate of overweight children in America doubled in the past 20 years and tripled among its adolescents. But apparently few here in Washington seem to have taken notice or cared, and predictably rates have continued to rise across the country.

Today, one in three children is overweight. Yes, Mr. Chairman, I said one in three, almost 35 percent. And what has been Congress's response to the growing epidemic? Has it provided more funding for obesity awareness or tried to implement programs to improve nutrition in schools? No. Instead, Congress brings forwards a bill to immunize fast food companies. Where is the logic?

Those supporting the bill talk about choice, the freedom to eat. Well, we are talking about young children and, of course, we want them to eat correctly, healthy, and that is not the primary responsibility of the fast food industry. Childhood obesity is best tackled at home through improved parental involvement, increased physical exercise, better diet and restraint from eating.

However, as a parent, as a grandparent, as a former educator, I know that these practices alone when we are dealing with young children are insufficient. We will never control this rising epidemic without greater accountability from the food industry.

Congress is headed in the wrong direction with this bill which removes any and all incentives from the food industry to improve their products for children. Congress has allowed the greed of big corporations to come before the need of our children. Today, the younger generation faces a litany of health issues that generations before just never did. Heart disease, high blood pressure, hypertension, joint problems, asthma, diabetes and cancer are on the increase with these young children; and a steady diet of fast food is the last thing they need. Unfortunately, fast food restaurants are bombarding our children with advertisements that encourage overconsumption of unhealthy eating choices.

The average child views 20,000 television commercials every year. That is about 55 a day. More disturbingly, the commercials for candy, snacks, sugared cereals and other food with poor nutritional content far out-number commercials for more healthy food choices. So it is not just a matter of individual responsibility, of individual choice when we are talking about young children under 8.

Studies indicate that these children are more susceptible to advertising and even less likely to understand the purpose of this advertising. So why is so much advertising at home done during the cartoon hours? It is no coincidence that major fast food chains routinely run their advertisements during this time. Experts in this field unequivocally state that the fear of litigation and regulation prompts the industry to rethink how it markets and sells food to children. This has been evidenced by some of the recent changes made within the industry.

Unfortunately, the bill as presently written forecloses the opportunity to

hold the industry accountable and thus puts any future improvements in jeopardy, assuring continued high rates of childhood obesity, leaving me to wonder whether we in Congress are here to represent the people or big business.

The bill is entitled Personal Responsibility in Food Consumption Act. Personal responsibility is a two-way street: both the consumer and the executives of the industry, both should act in a personally responsible manner. So I ask my colleagues to join me in supporting this amendment to hold fast food companies accountable and to protect our young children.

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

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

The gentleman makes a valid point that we have a lot of obese children. I think it is actually more like 40 percent in some recent studies I have seen. This is a terrible problem, but I urge the Members to defeat this amendment. It was defeated by voice vote last year, and it should be defeated again this year.

The gentleman from California (Mr. FILNER) also talks about the accountability of the food industry; but this amendment tells parents that if they are not responsible for their children's eating, they can become millionaires. This amendment manages to exploit children and discourages parents from exercising parental responsibility all at the same time. It literally would hold food companies liable when parents buy their kids a six-pack of kid meals every day for 8 years. Adopting this amendment would turn the Personal Responsibility in Food Consumption Act into the Parent Irresponsibility Act.

Even the ultra-liberal Los Angeles Times has stated this is wrong, saying in an editorial: ''If kids are chowing down to excess on junk food, aren't their parents responsible for cracking down? And if parents and other grown-ups overindulge, isn't it their problem, not that of the purveyors of fast food? Why boost their food bills because of illegal jousting? People shouldn't get stuffed, but this line of litigation should.''

Even our best obesity doctors realize that this amendment is another sad assault on the concept of parental responsibility. As Dr. Jana Klauer, a fellow at the New York City Obesity Research Center of St. Luke's Roosevelt Hospital has said, ''I just wonder where were the parents when kids were having these McDonald's breakfasts every morning. Were they incapable of pouring a bowl of cereal and some milk?''

Let us do what we did last year and defeat this parental irresponsibility amendment by voice vote.

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

Mr. FILNER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, my friend from Utah (Mr. CANNON) should be writing advertisements for the fast food industry. Throwing out red herrings, probably which would not give us obesity, about families becoming millionaires and all this stuff. It is just a side show.

We are talking about young children. Sure, they ought to make the right choice and, sure, their parents ought to make the right choices; but the pressure is on them through television. Parents cannot always be there. The schools are bringing in the fast food restaurants so they can make some more money and they encourage it. And lastly and most importantly, the advertising that is aimed at these children: Where is the responsibility for the adults who are running these advertisements? They are aimed at our children.

Mr. CANNON. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I urge my colleagues to defeat this amendment. There is a problem in America. There is no question but that there is a problem. We do not solve that problem by shifting responsibility to corporations. It would be good if corporations did perfect things, but we live in an imperfect world where parents have the ability to turn off the television, parents have the ability to teach their children what to eat and how to eat well. And, interestingly, food that is better for you actually costs less.

Parents have the ability to deal with these issues in ways that this Congress and industry cannot do. I urge my colleagues to reject this amendment.

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

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. FILNER).

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

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

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from California (Mr. FILNER) will be postponed.

It is now in order to consider amendment No. 4 printed in House Report 109–249.

AMENDMENT NO. 4 OFFERED BY MR. SCOTT OF VIRGINIA

Mr. SCOTT of Virginia. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. SCOTT of Virginia:

At the end of the bill, add the following new section:

SEC. ___. STATE CONSUMER PROTECTION ACTIONS.

Notwithstanding any other provision to the contrary in this Act, this Act does not apply to an action brought by a State agency to enforce a State consumer protection law concerning mislabeling or other unfair and deceptive trade practices.

The Acting CHAIRMAN. Pursuant to House Resolution 494, the gentleman from Virginia (Mr. SCOTT) and the gentleman from Utah (Mr. CANNON) each will control 5 minutes.

The Chair recognizes the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we have apparently decided to try these kinds of cases on the floor of the House where politics and popularity will be considered, even financial contributions will be allowed, rather than have those cases and special interests relegated to the judicial branch where they will be facing unbiased judges and juries and relegated to the same laws that apply to everybody else. But if we are going to try the cases, we ought to at least limit the impact of the bill to the fast food rhetoric that we have heard.

This bill, unfortunately, covers not only fast food lawsuits but also litigation involving consumer protection when obesity or weight gain may be one of the elements of the case.

Now, every single State has laws on the books to protect its consumers. Every State has laws to protect consumers from misleading practices and each attorney general has the power to enforce these laws. But unfortunately as written, the bill will prevent State attorneys general from enforcing those laws. It will not just stop the individual fast food lawsuits that my colleagues have been discussing, but because a person who may be a plaintiff is defined in the bill to include governmental agencies, it will prevent States from getting injunctions, cease and desist orders, or imposing fines against those who endanger consumers.

It is important to note that not only money damages are precluded by the bill. Rather, the bill refers to damages, penalties, injunctive or declaratory relief, restitution or other relief, all are prohibited forms of relief that will no longer be available to State attorneys general if this bill passes without my amendment.

The exception for a ''knowing'' violation is not enough. State deceptive practices are just like the Federal Trade Commission Act. They allow civil enforcement actions whether or not the defendant willfully or knowingly violated the law. In fact, food labeling and deceptive practices have often exacted strict liability, that is, if the government can get an injunction whether the person was intentionally or knowingly in violation.

Mr. Chairman, my State of Virginia has the Consumer Protection Act. It prohibits misrepresenting that goods or services have certain qualities, characteristics, ingredients, uses or benefits that they do not have, and any other conduct which similarly creates a likelihood of confusion or misunderstanding. A court may order an injunction or restitution to injured parties even if the violation was unintentional.

In fact, Virginia is not alone. At least 12 other States have specifically adopted the Uniform Deceptive Trade Practices Act, section 3, which says that intentional deceptive action is not necessary to get injunctive relief.

□ 1145

At least 23 other States have similar standards.

So, Mr. Chairman, my amendment that I present today will address that problem in the bill. It will ensure that attorneys general and State agencies can put an end to mislabeling, to deceptive practices, to false advertising, and other consumer fraud within the borders of the State. Whatever we think of the individual fast food lawsuits, we should not prohibit State attorneys general from enforcing States laws and protecting their citizens.

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

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

This gutting amendment was defeated on the House floor last year by a vote of 241 to 177, and it should be defeated again this year.

Lawsuits relating to obesity and weight gain are wrong no matter who brings them. If private claims are frivolous and should be blocked, then we should not encourage States to bring them either. This bill only applies to lawsuits arising out of or related to obesity and weight gain.

State consumer protection statutes are not intended to cover these kinds of claims. In fact, not a single State consumer protection law allows a State agency to sue for damages because someone got fat from eating too much. However, because the amendment implies State consumer protection laws do allow lawsuits in which the claim is obesity or weight gain, courts may well read it to grant all State agencies new powers to use their State consumer protection laws to seek damages against the food industry for obesity-related claims. That is directly contrary to the purpose of this bill. It would not be right to allow States to use their consumer protection laws in ways they cannot use them now, namely, to sue the food industry for obesity-related claims. Consequently, this amendment should be defeated.

In any case, section 4(5)(b) of H.R. 544 makes it clear that obesity-related lawsuits can be brought by anyone who can prove he suffered harm as a result of a violation of State or Federal law, including laws that prohibit deceptive or misleading advertising, by showing he individually and justifiably relied on such deceptive or misleading advertising and that such reliance was the proximate cause of the injury.

So the bill itself already allows lawsuits against bad actors while preserving the concept of personal responsibility. The amendment does not do that, it should be defeated, and I urge my colleagues to vote against this amendment.

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

Mr. SCOTT of Virginia. Mr. Chairman, in closing let me just say that, as the gentleman from Arkansas, who is a physician, indicated, weight gain can be caused by contamination or other problems, even if that contamination was unknowing. Under this bill, the attorney general would not be able to get an injunction. We should trust our States attorneys general and consumer protection agencies to do the right thing and not prohibit them from protecting our citizens.

Mr. Chairman, I would hope the amendment would be adopted.

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

Mr. CANNON. Mr. Chairman, in closing, let me just say that we have consumer protection laws. This bill is not intended to expand those laws. It is not intended to put restaurants out of business. It is not intended to shift responsibility from individuals and from parents. It is about personal responsibility, and I urge opposition to this amendment.

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

The Acting CHAIRMAN (Mr. PUTNAM). The question is on the amendment offered by the gentleman from Virginia (Mr. SCOTT).

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

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

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Virginia (Mr. SCOTT) will be postponed.

It is now in order to consider amendment No. 5 printed in House Report 109–249.

AMENDMENT NO. 5 OFFERED BY MR. WAXMAN

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

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. WAXMAN:

At the end of the bill, add the following new section:

SECTION ____. NOT APPLICABLE TO DIETARY SUPPLEMENTS.

Notwithstanding any other provision of this Act, this Act does not apply to a claim of injury involving a dietary supplement relating to a person's weight gain, obesity or any health condition associated with weight gain or obesity.

The Acting CHAIRMAN. Pursuant to House Resolution 494, the gentleman from California (Mr. WAXMAN) and the gentleman from Utah (Mr. CANNON) each will control 5 minutes.

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

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

Mr. Chairman, those who support this bill argue that food manufacturers should be sheltered from lawsuits claiming that their products cause someone to become obese. I can understand their reasoning, because there is a sense of personal responsibility involved. But what my amendment would do is to limit that language so it is not so broad as to include what are called ''dietary supplements,'' because some of these products are not like food. They are not reviewed by the FDA. They are not even subject to FDA intervention, unless they can show real harm being done, and we have had examples of ephedra and andro that have been withdrawn from the market because they caused serious injury, or DHEA, which is a steroid precursor.

The bill authors would say that they want to protect from lawsuits when people say they have gained weight or there is obesity or health conditions associated with a person's weight gain or obesity. Imagine you are overweight and suffer from high blood pressure because you are overweight, and you decide to try losing weight by taking a dietary supplement product. But what you do not know is that the product you are taking contains a potentially dangerous stimulant; and instead of helping you lose weight, the product causes your blood pressure to go even higher and makes you really sick. If this bill passed, you could not sue the dietary supplement company even if the product did not have a warning label; even if the companies received thousands of adverse event reports that they have kept hidden; even if a professional medical society and experts have concluded that the product is dangerous; and even if the company has never tested the product to see if it is safe.

Removing the threat of liability for dangerous dietary supplements would be a grave mistake. Despite evidence that supplements containing ephedra are dangerous and have caused heart attacks or strokes or death, it took the FDA years to act to take higher-dose ephedra supplements off the market. In the meantime, some dietary supplement companies stopped making ephedra products because of the mounting litigation. Without having to take responsibility for their products, manufacturers could be free to sell dangerous substances to the public. The threat of a lawsuit could have a real impact here, and it is not one simply of personal responsibility.

We are seeing now a new generation of weight-loss products marketed as dietary supplements that have stimulant ingredients that may be similar to ephedra. According to a recent study, these new products may raise blood pressure and heart rate, making them potentially dangerous particularly to those people who already have heart disease. However, it is perfectly legal for a dietary supplement manufacturer to sell these products without testing to see if they are safe and without warning consumers of potential adverse effects.

This bill, as it is drafted, is a license for reckless behavior by dietary supplement manufacturers. I do not know if that is what the authors intended; I tend to think they probably did not look at that issue. It allows them to sell dangerous products to Americans without ever having to take responsibility in a court of law, and our amendment would close the dietary supplement loophole. I urge my colleagues to support it.

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

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

Mr. Chairman, the amendment is substantially the same as the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE), which was defeated on the House floor last year by a vote of 166 to 250, and it should be defeated again this year.

This amendment must be defeated because it would gut the bill. This amendment, if adopted, would allow anyone to eat as many health bars and drink as many diet shakes as they wanted and then sue the makers of the health bars and the diet shakes for millions of dollars for making them fat when the health bar and diet shake manufacturers had done absolutely nothing wrong.

The term ''dietary supplement,'' as defined in 21 U.S.C. can include just about any food imaginable. It is defined in 21 U.S.C. 321(ff) as ''a product intended to supplement the diet that bears or contains one or more of the following ingredients,'' including ''a vitamin or mineral.'' Do we really want to encourage lawsuits by people who get fat because they choose to eat too much food that happens to meet this definition? Of course not. And that is why this amendment must be defeated.

The same concept of personal responsibility should apply to anyone who chooses to eat too many health bars or diet shakes, or other similar products, just as it should be applied to anyone else.

If you want to destroy every company that sells products that help keep our waistlines trim by allowing them to be sued out of existence, then vote for this amendment. But if you want to help combat the obesity problem in America, vote down this gutting amendment and preserve the concept of personal responsibility.

Allowing the types of lawsuits this amendment would allow flatly contradicts the advice of our Nation's leading nutritionists. Listen to the insightful words of Dr. Gerard Musante, a clinical psychologist with training at Duke University Medical Center, who has worked for more than 30 years with thousands of obese people. He is the founder of Structure House, a residential weight-loss facility in Durham, North Carolina. He said the following at a Senate hearing on this legislation:

''Lawsuits are pointing fingers at the food industry in an attempt to curb the Nation's obesity epidemic. These lawsuits do nothing but enable consumers to feel powerless in a battle for maintaining one's own personal health. The truth is, we as consumers have control over the food choices we make, and we must issue our better judgment when making these decisions. Negative lifestyle choices cause obesity, not a trip to the fast food restaurant or a cookie high in trans fat.

''Through working with obese patients, I have learned that the worst thing one can do is blame an outside force to get themselves 'off the hook,' to say it is not their fault and that they are a victim. Congress has rightly recognized the danger of allowing Americans to continue blaming others for the obesity epidemic. It is imperative that we prevent lawsuits from being filed against any industry for answering consumer demands. The fact that we are addressing the issue here today is a step in the right direction.''

Even the chairman of the American Council For Fitness and Nutrition, Susan Finn, has written that ''Although obesity is a serious health threat to millions of Americans, lawsuits and fingerpointing are not realistic solutions. If you are obese, you don't need a lawyer, you need to see your doctor, a nutritionist and a physical trainer. Playing the courtroom blame game won't make anyone thinner or healthier.''

Section 4(5)(b) of H.R. 554 makes it clear that obesity-related lawsuits can be brought by anyone who can prove he has suffered harm as a result of a violation of State or Federal law, including laws that prohibit deceptive or misleading advertising, by showing they individually and justifiably relied on such deceptive or misleading advertising and such reliance was the proximate cause of their injury. So if a manufacturer of a health bar or a diet shake lies concerning the calorie content of the food, and someone relies on that false statement and suffers injury, the person can sue the manufacturer under this legislation.

But let us not encourage people to sue makers of health bars and diet shakes because they choose to eat too many of them and get fat. I urge my colleagues to defeat this amendment.

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

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

I know that the argument on the other side is that we want people to take personal responsibility, but is it fair to say that there is personal responsibility when a company hides thousands of serious adverse effects, as was the case with a company that had a product with ephedra in it; or when a company does not warn about its risks; when companies know about dangers and do not market their product responsibly?

We are not talking about in this situation a food product that may be heavy in fat or may have cholesterol or whatever. People should expect in eating foods generally recognized as safe that if they abuse their eating habits they are responsible for it. But with a dietary supplement, if the manufacturer withholds this information about the risks, and there is no warning whatsoever when the manufacturer knows there should be, then it seems to me we are giving up the responsibility of the manufacturer to warn and taking people who are harmed not because they did not act responsibly and then saying to them they are out of luck.

I would think this is not a good argument that we have heard on the other side, and I would hope Members would make this exception. A food supplement, a dietary supplement in the form of a pill or some other process is like a drug, and I do not think we would want people to be subjected to no lawsuit that is legitimate if the drug has never been approved and never warned about by the manufacturer. So I ask support of the amendment.

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

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

The gentleman is talking about various kinds of supplements. He mentioned ephedra and other supplements to help people lose weight. That is a substantial distinction here. If a person buys a supplement and there has been misleading advertising or the manufacturer knows of adverse effects and does not communicate those, and if that constitutes a violation of law, a lawsuit is not prohibited by this legislation. This legislation is going the other way and saying you cannot sue people if you get fat because you make wrong choices, as opposed to you have had some kind of injury or illness because of a misadvertised or otherwise inappropriate utilization of a supplement.

□ 1200

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

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

Mr. WAXMAN. Mr. Chairman, the gentleman raises an interesting point that it would be a violation of law. A lot of times these are not violations of law because there are no laws that pertain.

Mr. CANNON. Reclaiming my time, we are not trying to change the whole world of consumer law here, we are only trying to change one aspect of it. If the gentleman is concerned about, and I know the gentleman has great concern about the effect of supplements like Ephedra which have largely been abandoned by the industry, that is something we ought to be considering, but not in the context of this legislation. I urge my colleagues to reject this amendment.

The Acting CHAIRMAN (Mr. TERRY). The question is on the amendment offered by the gentleman from California (Mr. WAXMAN).

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

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

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from California (Mr. WAXMAN) will be postponed.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order:

Amendment No. 2 by Ms. JACKSON-LEE OF TEXAS.

Amendment No. 3 by Mr. FILNER of California.

Amendment No. 4 by Mr. SCOTT of Virginia.

Amendment No. 5 by Mr. WAXMAN of California.

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. 2 OFFERED BY MS. JACKSON-LEE OF TEXAS

The Acting CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 67, noes 357, not voting 9, as follows:

[Roll No. 529]

AYES—67

Berkley
Brady (PA)
Brown (OH)
Butterfield
Capuano
Carnahan
Carson
Clay
Cleaver
Crowley
Cummings
DeFazio
Delahunt
Doggett
Farr
Fattah
Filner
Green, Al
Green, Gene
Grijalva
Gutierrez
Higgins
Hinchey
Hinojosa
Honda
Jackson (IL)
Jackson-Lee (TX)
Johnson, E. B.
Jones (OH)
Kilpatrick (MI)
Kucinich
Langevin
Larson (CT)
Lee
Markey
McDermott
McKinney
McNulty
Meehan
Millender-McDonald
Moore (WI)
Nadler
Napolitano
Obey
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Rush
Sánchez, Linda T.
Sanders
Schakowsky
Scott (VA)
Serrano
Slaughter
Stark
Thompson (MS)
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Wexler
Woolsey
Wynn

NOES—357

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
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 (TX)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Cardoza
Carter
Case
Castle
Chabot
Chandler
Chocola
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cramer
Crenshaw
Cubin
Cuellar
Culberson
Cunningham
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeGette
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doolittle
Doyle
Drake
Dreier
Duncan
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Ferguson
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)
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hobson
Hoekstra
Holden
Holt
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
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)
McCollum (MN)
McCotter
McCrery
McGovern
McHenry
McHugh
McIntyre
McKeon
McMorris
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Olver
Ortiz
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sanchez, Loretta
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)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Walden (OR)
Walsh
Wamp
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Young (AK)
Young (FL)

NOT VOTING—9

Boswell
Davis (FL)
Dingell
Edwards
Feeney
Keller
Lewis (GA)
Myrick
Roybal-Allard

ANNOUNCEMENT BY THE ACTING CHAIRMAN

The Acting CHAIRMAN (Mr. TERRY) (during the vote). Members are advised there are 2 minutes left in this vote.

□ 1228

Messrs. BARRETT of South Carolina, KINGSTON, WAXMAN, Ms. SOLIS, Mrs. NORTHUP, Messrs. NEAL of Massachusetts, LEVIN, RANGEL, SMITH of Texas, GEORGE MILLER of California, HOLT, Ms. SCHWARTZ of Pennsylvania, Mrs. MCCARTHY, Mr. CONYERS, and Mr. HASTINGS of Florida changed their vote from ''aye'' to ''no.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 3 OFFERED BY MR. FILNER

The Acting CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from California (Mr. FILNER) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 129, noes 298, not voting 6, as follows:

[Roll No. 530]

AYES—129

Abercrombie
Ackerman
Andrews
Baldwin
Becerra
Berman
Bishop (NY)
Blumenauer
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Chandler
Clay
Cleaver
Conyers
Costello
Crowley
Cuellar
Cummings
Davis (CA)
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Emanuel
Engel
Etheridge
Evans
Farr
Fattah
Filner
Gonzalez
Green, Al
Green, Gene
Grijalva
Gutierrez
Hastings (FL)
Higgins
Hinchey
Holt
Honda
Hoyer
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kucinich
Lantos
Larson (CT)
Lee
Levin
Lipinski
Lofgren, Zoe
Lowey
Maloney
Markey
Matsui
McCarthy
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Miller (NC)
Miller, George
Mollohan
Moore (WI)
Moran (VA)
Musgrave
Nadler
Napolitano
Oberstar
Obey

Olver
Owens
Pallone
Pastor
Payne
Pelosi
Price (NC)
Rahall
Rangel
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (VA)
Serrano
Sherman
Slaughter
Solis
Stark
Stupak
Thompson (MS)
Tierney
Udall (NM)
Van Hollen
Velázquez
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu

NOES—298

Aderholt
Akin
Alexander
Allen
Baca
Bachus
Baird
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Berkley
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boucher
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Case
Castle
Chabot
Chocola
Clyburn
Coble
Cole (OK)
Conaway
Cooper
Costa
Cramer
Crenshaw
Cubin
Culberson
Cunningham
Davis (AL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Edwards
Ehlers
Emerson
English (PA)
Eshoo
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kelly
Kennedy (MN)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Langevin
Larsen (WA)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Lynch
Mack
Manzullo
Marchant
Marshall
Matheson
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
Melancon
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller, Gary
Moore (KS)
Moran (KS)
Murphy
Murtha
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Otter
Oxley
Pascrell
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
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Royce
Ruppersberger
Ryan (WI)
Ryun (KS)
Salazar
Sanchez, Loretta
Saxton
Schmidt
Schwarz (MI)
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Souder
Spratt
Stearns
Strickland
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Towns
Turner
Udall (CO)
Upton
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (AK)
Young (FL)

NOT VOTING—6

Boswell
Davis (FL)
Keller
Lewis (GA)
Myrick
Roybal-Allard

ANNOUNCEMENT BY THE ACTING CHAIRMAN

The Acting CHAIRMAN (Mr. TERRY) (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1236

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 4 OFFERED BY MR. SCOTT OF VIRGINIA

The Acting CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Virginia (Mr. SCOTT) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 192, noes 234, not voting 7, as follows:

[Roll No. 531]

AYES—192

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boucher
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Crowley
Cuellar
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Duncan
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Fitzpatrick (PA)
Ford
Frank (MA)
Gerlach
Gonzalez
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
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)
Lee
Levin
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)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rohrabacher
Ross
Rothman
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tauscher
Taylor (MS)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—234

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
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
Cramer
Crenshaw
Cubin
Culberson
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Edwards
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
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
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)

Saxton
Schmidt
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tanner
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—7

Boswell
Davis (FL)
Keller
Lewis (GA)
Myrick
Roybal-Allard
Simpson

ANNOUNCEMENT BY THE ACTING CHAIRMAN

The Acting CHAIRMAN (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1246

Mr. CARDOZA changed his vote from ''aye'' to ''no.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 5 OFFERED BY MR. WAXMAN

The Acting CHAIRMAN (Mr. TERRY). The pending business is the demand for a recorded vote on the amendment offered by the gentleman from California (Mr. WAXMAN) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 177, noes 247, not voting 9, as follows:

[Roll No. 532]

AYES—177

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

NOES—247

Aderholt
Akin
Alexander
Bachus
Baird
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carter
Case
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cooper
Cramer
Crenshaw
Cubin
Cuellar
Culberson
Cunningham
Davis (AL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Deal (GA)
DeFazio
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Edwards
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hobson
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jackson-Lee (TX)
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
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
Matheson
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Murtha
Musgrave
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schmidt
Schwarz (MI)
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Smith (NJ)
Smith (TX)
Sodrel
Souder
Spratt
Stearns
Sullivan
Tancredo
Tanner
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Young (AK)
Young (FL)

NOT VOTING—9

Boswell
Davis (FL)
Keller
Lewis (GA)
Maloney
Marchant
Myrick
Roybal-Allard
Simpson

ANNOUNCEMENT BY THE ACTING CHAIRMAN

The Acting CHAIRMAN (during the vote). Members are advised there are 2 minutes left in this vote.

□ 1253

So the amendment was rejected.

The result of the vote was announced as above recorded.

The Acting CHAIRMAN. 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. LATHAM) having assumed the chair, Mr. TERRY, 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. 554) to prevent legislative and regulatory functions from being usurped by civil liability actions brought or continued against food manufacturers, marketers, distributors, advertisers, sellers, and trade associations for claims of injury relating to a person's weight gain, obesity, or any health condition associated with weight gain or obesity, pursuant to House Resolution 494, 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.

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

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 306, nays 120, not voting 7, as follows:

[Roll No. 533]

YEAS—306

Aderholt
Akin
Alexander
Baca
Bachus
Baird
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Berkley
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boucher
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carter
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole (OK)
Conaway
Cooper
Costa
Cramer
Crenshaw
Cubin
Cuellar
Culberson
Cunningham
Davis (AL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Gene
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kelly
Kennedy (MN)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas
Lungren, Daniel E.
Lynch
Mack
Manzullo
Marchant
Marshall
Matheson
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
McNulty
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller, Gary
Moore (KS)
Moran (KS)
Moran (VA)
Murphy
Musgrave
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Obey
Ortiz
Osborne
Otter
Oxley
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Salazar
Sanchez, Loretta
Saxton
Schmidt
Schwarz (MI)
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Sodrel
Souder
Spratt
Stearns
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Towns
Turner
Udall (CO)
Upton
Velázquez
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NAYS—120

Abercrombie
Ackerman
Allen
Andrews
Baldwin
Becerra
Berman
Bishop (NY)
Blumenauer
Brady (PA)
Brown (OH)
Butterfield
Capps
Capuano
Cardin
Carnahan
Carson
Case
Chandler
Cleaver
Conyers
Costello
Crowley
Cummings
Davis (CA)
DeGette
Delahunt
DeLauro
Doggett
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Frank (MA)
Gonzalez
Green, Al
Grijalva
Gutierrez
Hastings (FL)
Hinchey
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kucinich
Lantos
Lee
Levin
Lofgren, Zoe
Lowey
Maloney
Markey
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McKinney
Meehan
Miller (NC)
Miller, George
Mollohan
Moore (WI)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Olver
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Price (NC)
Rahall
Rangel
Rothman
Rush
Sabo
Sánchez, Linda T.
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (VA)
Serrano
Sherman
Snyder
Solis
Stark
Strickland
Thompson (MS)
Tierney
Udall (NM)
Van Hollen
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey

NOT VOTING—7

Boswell
Davis (FL)
Keller
Lewis (GA)
Myrick
Pryce (OH)
Roybal-Allard

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LATHAM) (during the vote). Members are advised that 2 minutes remain in this vote.

□ 1314

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MOTION TO GO TO CONFERENCE ON H.R. 2744, AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2006

Mr. BONILLA. Mr. Speaker, pursuant to clause 1 of rule XXII, and by direction of the Committee on Appropriations, I move to take from the Speaker's table the bill (H.R. 2744) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore (Mr. TERRY). The question is on the motion offered by the gentleman from Texas (Mr. BONILLA).

The motion was agreed to.

MOTION TO INSTRUCT OFFERED BY MS. DELAURO

Ms. DELAURO. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

Ms. DELAURO of Connecticut moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill, H.R. 2744, be instructed to:

1. Recede to the Senate on Section 785 of the Senate amendment, and

2. Agree to a provision that restricts, within the scope of conference, the availability of funds to reimburse administrative costs under the Food Stamp Act of 1977 to a State agency based on the percentage of the costs (other than costs for issuance of benefits or nutrition education) obtained under contract.

□ 1315

The SPEAKER pro tempore (Mr. TERRY). Pursuant to clause 7 of rule XXII, the gentlewoman from Connecticut (Ms. DELAURO) and the gentleman from Texas (Mr. BONILLA) each will control 30 minutes.

The Chair recognizes the gentlewoman from Connecticut (Ms. DELAURO).

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

Mr. Speaker, I rise to offer this motion to instruct. This motion will instruct House conferees for the fiscal year 2006 agricultural appropriations bill to insist that none of the funds made available by this or any other act be used to close or relocate a county or local Farm Service Agency office until the Secretary of Agriculture has determined the cost effectiveness of such closures.

It would also set a limit on the funds available for States to contract out work being carried out under the Food Stamp Act of 1977.

I want to first say that it has been a pleasure working with the gentleman from Texas (Mr. BONILLA) and his talented staff to put together the fiscal year 2006 agricultural appropriations bill, doing the best we could with very limited resources.

Under the circumstances, it is a bill that I was proud of, my first as ranking minority member of this subcommittee. I also want to thank the gentleman from Wisconsin (Mr. OBEY).

Mr. Speaker, I join with my colleagues to offer a motion that would in essence codify the decision announced yesterday by the U.S. Department of Agriculture to shelve its so-called FSA Tomorrow Plan, a plan that would have closed 713 of the Farm Service Agency's 2,351 offices across America, including two in my State of Connecticut. Had the plan gone into effect, more than a quarter of FSA's total field offices would have closed at a

time when rural America is battling drought, the aftermath of Hurricane Katrina, and skyrocketing energy costs, all leading to what has been a steady deterioration of its economic base.

For those unfamiliar with FSA, the Farm Service Agency administers 45 different programs designed to meet the demands of our increasingly diverse agricultural landscape. It provides critical services to America's farmer, services such as assistance to specialty crop producers, disbursal of payments for programs such as the tobacco and peanut buyout, and the handling of disaster assistance payments.

But perhaps more importantly, FSA offices provide that critical link between the farmer and the Federal Government. In that respect, FSA still retains its roots in FDR's New Deal which established that the Federal Government had an appropriate role to play in ensuring a healthy rural economy, a critical component to managing the national economy.

Over the years, the agency that became the FSA managed programs such as the standard Rural Rehabilitation Loan Program, which provided credit, farm, home management planning and technical supervision to farms. It helped farmers and their debtors arbitrate agreements and head off foreclosure. Indeed, FSA's focus has changed as the need has.

After Pearl Harbor the War Food Administration was organized to meet the increased needs of a country at war. And in 1994 USDA reorganized what is now the Farm Service Agency, which included the Agricultural Stabilization and Conservation Service, the Risk Management Agency, and the Farm Credit portion of the Farmers Home Administration.

In recent years, FSA has become part of USDA's one-stop concept, a clearinghouse for the delivery for farm programs, where farmers can go for programs that help them stabilize farm income, conserve land and water resources, provide credit to new or disadvantaged farmers and ranchers, and help farm operations recover from the effects of disaster.

In recent months, however, USDA was planning what was called FSA Tomorrow, which ostensibly was designed to provide better staff, better equipped and trained offices to improve flexibility and efficiency and to modernize technology. These were all laudable goals, despite real challenges posed by that digital divide and lack of Internet access in rural America.

But central to FSA Tomorrow was its proposal to close over 700 FSA offices. The effect would have been clear and immediate, making it more difficult for producers to participate in USDA programs. Closing these offices would have fragmented the one-stop concept, forcing many farmers to drive hundreds of miles to the nearest FSA office where some of the closings are occurring in areas with an already high concentration of underserved minority and small-operation farms.

This was all happening at a time when FSA services were as critical as ever in modern memory. Even before Katrina there was extensive work going on for hurricane and flood relief for the Southeast and mid-South, as well as work around drought problem in the Midwest; and we know the havoc Katrina wrecked on the gulf coast.

What was most worrisome about the FSA Tomorrow Plan was its formulation by USDA without any cost analysis to show why it was necessary, nor was there any input from Congress. Thankfully, in the wake of Senate action, USDA announced yesterday that it would set aside FSA Tomorrow and its timetable for implementation.

As such, we offer this motion today to codify that decision, protecting Congress' jurisdiction in the formulation of policy so vital to American farmers' interest. We all support improving FSA efficiency, streamlining the program so that our farmers can get the best services possible. But I think yesterday's decision confirmed that ensuring FSA field offices remain open and within reach of our farmers is a critical piece of making that happen.

Mr. Speaker, the second component of this motion would instruct conferees to limit the availability of food stamp funds that can be contracted out by States. Specifically, such language would prohibit a State agency from using Federal funds if they privatize a certain percentage of their food stamp program operations.

What this is about is ensuring the integrity of the Food Stamp Program, which, Mr. Speaker, is one of the most effective, well-run Federal programs that we have. If you have any doubt about that, I point you to the program's remarkable response to Hurricane Katrina.

Today, in Louisiana nearly 300,000 households are already receiving food stamps. In Texas there are another 125,000 households receiving emergency food stamp assistance. Altogether, nearly a million citizens affected or displaced by Hurricane Katrina, children, seniors, are receiving emergency food stamp benefits, 25 million Americans in all, reminding us once again that good and decent societies take care of their most vulnerable.

But as we speak, at least one State is planning on delegating an unprecedented billion dollar privatization contract. Texas is hoping to delegate certification and enrollment of recipients for food stamps to a private firm, Accenture, LLP. Its plan is disturbing, to say the least, as its Health and Human Services Department would lay off at least 1,200 stamp workers, closing more than a third of State-run eligibility offices around the State, 99 in all. Texas is planning to replace staff at low hourly rates.

The responsibility for screening applicants, filling out web-based forms and driving clients to the remaining offices for certification, that would fall to community organizations. Much like with farmers in the proposed FSA office closing, clients, including their children, seniors and many who do not speak English, would be forced to travel long distances for these services.

There are a host of problems with the Texas plan. For one, it appears illegal, conflicting with Federal statutes governing the Food Stamp Program, which requires States to seek a waiver from the USDA.

In a letter to the ranking member on the Senate side, the USDA said the following: We do not have enough information to ascertain whether or not Texas' proposal is in compliance with the act in regard to the certification of recipients. States are required to seek a waiver from the USDA, and Texas sought no such waiver. Indeed, USDA has raised questions directly to the Texas Health and Human Services Commission for over a year, asking it for information demonstrating this contract is in compliance with Federal law, and has received no real response.

Secondly, there are several worrisome conflicts of interest. The Houston Chronicle reports that the HHS Chief Information Officer involved in contract negotiation was once an employee of a firm that partnered with Accenture. Additionally, the former HHS Deputy Commissioner who helped develop the bidding procedures subsequently went to work for Accenture.

What makes this so unfortunate is that it is so unnecessary. The Food Stamp Program right now is operating with the lowest error rate it has ever had, the result of years of work by USDA and by State and local employees all over the country. Texas itself has a very well-operated program. Why take the risk that a well-run program will, even with the best intentions, be put at risk?

Let me just say, of all the companies with which the government can do business with, I have serious concerns about the company that has been awarded this particular food stamp contract. Accenture is a corporate expatriate, a company that has set up paper offices overseas to avoid paying American taxes, yet comes back to feed at the Federal trough by way of government contracts when it is convenient.

One need only to look at the Department of Homeland Security's $10 billion US–VISIT Program which Accenture oversees to understand such concerns. That contract is over budget, behind schedule, and falling well short of its goals.

Mr. Speaker, this is not simply about an isolated issue in Texas. The taxpayers all over the country pay half of the costs of running the Food Stamp Program. We have an obligation to ensure that that program is run effectively and efficiently and in compliance with the law. Moreover, before other States go down the same path as Texas, we need to be sure we understand what the implications are first.

That is what this motion would accomplish. Protecting vital services and benefits offered through the Food Stamp Program is something all of us share, which is why we need to ensure that those charged with administering and carrying out these programs are by and large public employees. They are the ones with the expertise. They are the ones with the experience on the front lines. And, Mr. Speaker, they were the ones who made it possible for the victims of Hurricane Katrina to put food on the table, who showed us that even in the face of all those failings of leadership government can make a difference in people's lives.

Making sure that continues is what this motion accomplishes.

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

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

Mr. Speaker, I rise in opposition to the motion but first I would like to say, Mr. Speaker, that it is a pleasure to work with my ranking member from Connecticut, a person who comes to work every day wanting to see some serious work done and a colleague who has always been very direct about what she wants to accomplish even when we do have disagreements.

On this particular motion I do agree with a portion, in the principle of what the FSA portion says in this motion. The gentlewoman is correct the Department of Agriculture went about there the wrong way in terms of trying to select offices around the country without any input, without any input from the House or the Senate or, if they did choose to listen to input, completely ignored what we had to say.

When I had conversations with those in charge at USDA, I pointed out initially that if there are going to be cuts, we understand that cuts need to be made. Everybody understands that, but we wanted to make sure that if cuts were made and designated positions were listed that they had to have an equal number of positions here at USDA, at the big conglomerate that we have here in Washington.

□ 1330

Do not just cut the field staff that serves farmers and ranchers around the country; but, again, let us make it fair and let us talk about it. First and foremost, we wanted to talk about it openly and have input because we are the legislative body that has oversight on what the executive branch does.

So I do agree with what the gentlewoman has to say. However, the administration has already acknowledged and listened to these remarks that many of us have made in the House and Senate and has chosen to backtrack and withdraw the list of proposed cuts, offices to be closed that was put out just a few days ago.

On the other part of the motion, I would differ greatly with the gentlewoman from Connecticut on the food stamp outsourcing, because as the gentlewoman understands, I support the food stamp program wholeheartedly and it has been historically supported wholeheartedly in a bipartisan way. We have never run short on the program, and everyone who needs to take part in this program has always had a meal and had the food products they needed in their homes regardless of where they live or their ethnic background or what part of the country they come from. But this language, in my view, would tie the hands of some States that are implementing the program and distributing the benefits effectively, including my home State of Texas. But this motion to instruct would also encompass Florida, Pennsylvania, New York, and California.

Now, in terms of outsourcing, it is my very strong belief that if a State is administering the program effectively and they have no outsourcing, that is wonderful. That is fine. But if another State decides, as we do in the State of Texas do it, and I believe the statistic now is about 14 percent of the program is now outsourced, and it works well, then we ought to be allowed to do that. So all I am saying is that the language in this motion to recommit would inappropriately indicate that Congress does not feel like the States ought to be able to administer this program the way they see fit in their community to effectively get the product to the people truly in need. So that is my reason for opposing this motion to instruct.

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

Ms. DELAURO. Mr. Speaker, I yield 1 minute to the gentleman from Missouri (Mr. SKELTON).

Mr. SKELTON. Mr. Speaker, today I rise in support of the motion to instruct the conferees regarding the USDA spending bill offered by the gentlewoman from Connecticut (Ms. DELAURO). The gentlewoman from Connecticut has been a diligent advocate for the Nation's farmers during her first year as ranking member on the Subcommittee on Agriculture, Rural Development, Food and Drug of the Committee on Appropriations, and I am proud to have watched her work successfully on behalf of the agricultural interests of my home State of Missouri.

Mr. Speaker, this motion asks the conferees to recede to the Senate language that stops the United States Department of Agriculture from going forward with its plans to close the Farm Service Agency offices, an initiative they call FSA Tomorrow, during fiscal year 2006.

Now, while I join most of my colleagues from rural America in applauding the USDA for backing away from this proposal yesterday, Congress must make it crystal clear that the administration's plan is bad, bad for farmers, and that we will not fund FSA office-closings whatsoever. This is especially true since there has been nothing written in the law to prevent USDA from having a sudden change of heart and within the next 12 months closing the offices.

Ms. DELAURO. Mr. Speaker, I yield 6 minutes to the gentleman from Wisconsin (Mr. OBEY).

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

Mr. Speaker, this motion is really meant to do two things: it is meant to rein in bureaucratic arrogance on the part of USDA, and it is meant to rein in bureaucratic arrogance on the part of the State government of Texas. With respect to USDA, this motion would prevent the arbitrary and secret closing of almost one-third of Farm Service Agencies around the country.

In the agriculture appropriation subcommittee hearing this year, the subcommittee chairman asked the USDA witnesses if their budget was based in any way on an assumption that there would be a closure of Agriculture Department offices. The agency responded in the negative.

And yet The Washington Post has now revealed in a September article that FSA had plans afoot to close 713 Farm Service Agencies around the country. When that was discovered, the Agriculture Department indicated, ''Oh, this was just a draft. It was just a draft.'' But in fact USDA had pulled all 50 State FSA directors into Washington to give them instructions about how to go about selecting which offices would be closed.

So it seems to me that USDA was disingenuous in their response to the Congress of the United States and that any self-respecting Congress would pull that agency's chain until we get straight answers to straight questions.

The second issue that this motion deals with is the question of whether or not Texas ought to be able to go off on its own, in violation of Federal law, by privatizing the administration of the food stamp program.

In June of 2004, Texas asked USDA to approve their request to privatize the administration of that program. The USDA sent them numerous letters requesting information that would enable USDA to determine whether or not the plan that Texas was providing was rational or not and whether it was consistent with law or not; and Texas has, frankly, stiffed the agency.

If you take a look at the letters sent by the agencies, you will see for instance that in a letter from USDA to Senator HARKIN, USDA said: ''We do not yet have enough information to ascertain whether or not Texas's proposal is in compliance with the act in regard to the certification of recipients.'' It also then went on to say: ''We are concerned with the State's aggressive schedule for rolling out this project, especially with regard to contingency planning.''

In another letter from USDA to the Texas Health and Human Services Commission, USDA stated: ''FMS needs to have clear and coherent narrative explanations of the food stamp certification process that are grounded

in the contract and its supporting documents.'' USDA then went on to tell Texas: ''We must ensure that your new system is in full compliance with food stamp rules, regulations, and policy and that service to our program clients is not compromised.''

Nonetheless, despite that, the Texas State government has yet to respond and provide the kind of information that is needed by USDA if USDA is to consider approval of their plan.

The problem with the Texas plan is that while recipients are guaranteed under the law that they will have an opportunity to have their eligibility determined by a State employee, in fact, what Texas is trying to do is to circumvent Federal law and allow eligibility to be determined by a private party. The problem with that is that if you have a public servant who denies you a right, you are entitled under the law and you have a somewhat more direct redress than you do if you have a private citizen working for a private company who has no long-term commitment to the government and who can simply stiff the recipients and does not have to answer questions from the government.

The government is supposed to be active in protecting the rights of each and every individual citizen of this country. Texas is interposing itself to prevent that right from actually being delivered; and in the process, in my view, Texas is clearly in violation of the law because they have proceeded with a plan that has not yet been approved by USDA.

Again, any self-respecting Congress, in defense of what is existing law, would pass this motion so that Texas cannot unilaterally obviate State law.

Ms. DELAURO. Mr. Speaker, I yield 8½ minutes to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Speaker, I applaud the gentlewoman for her very important motion to instruct. It is a motion to instruct that is designed to prevent an ideological experiment being conducted on some of the most vulnerable people in our society. It is about what has gone wrong in Texas, but it is much more than that because we are about to have a very bad precedent established that will spread across this country affecting the old, the poor, the hungry, the victims of Katrina, and the victims who are left behind.

As all the Nation saw in the disaster that was the Federal response to Katrina, a hurricane is not the only time that working poor people in this country get left behind. The Texas experiment on poor people suggests that the answer to food security that food stamps provide is to close one out of every four offices that people go to to assess their food stamp needs, to fire a significant number of public employees who have expertise in this area, and to suggest to old and poor and hungry people that what they need to do instead of turning to a public servant is to log on the Internet.

Yes, that is actually what the State of Texas is suggesting. And they offer to these poor people, not all of whom are literate in English or Spanish much less literate in the language of e-commerce, they offer them an alternative, which is the one that so many American families have faced, to dial in and be put on hold, much as the victims of Katrina were put on hold. You punch in a number and then you get referred to another number and you get to wait and wait and wait; and maybe eventually this company, Accenture, which chose to establish its base not in America but in Bermuda so it could dodge as much of its tax responsibility as it possibly could, that this company will substitute for a face-to-face evaluation.

I represent the poorest county in the United States, Starr County, Texas, the poorest statistical metropolitan area, McAllen-Mission; and a lot of people along the way through the Mesquite trees up to Austin, Texans, who depend on food stamps for enough nourishment to get their kids to school, or to be able to survive as a senior. These folks are going to be directly affected.

Currently, they are able to go in, and certainly along the border area if they feel more comfortable in Spanish, to talk face-to-face with someone who has expertise in this area, to talk with them and have that experienced public servant assess what their needs are and ensure that taxpayers are protected, and that there is not fraud, and ensure that their needs are fully satisfied.

Now those folks in Hebbronville, San Diego, George West, and Lockhart are being told go to the Internet or go to some long-distance number because you will no longer be able to assess your needs on the local level. And in McAllen, Mission, and Austin, staff will be cut by 50 percent.

That is why, Mr. Speaker, I have been joined by 10 of my Texas colleagues in questioning this scheme and raising questions to the U.S. Department of Agriculture. And I will provide for the RECORD a report from the Center on Public Policy Priorities in Austin, an excellent report, under its director, Judge F. Scott McCown, and with the able participation of Celia C. Hagert, analyzing this, as well as an editorial that is on point in today's Houston Chronicle.

[From the Houston Chronicle, Oct. 19, 2005]

AN UNTESTED PLAN

Texas Health and Human Services officials continue to discuss with their federal counterparts at the Department of Agriculture an unprecedented billion dollar welfare privatization contract. It delegates certification and enrollment of recipients for programs including food stamps, Medicaid and the Children's Health Insurance Program known as CHIP to a private firm, Accenture LLP.

There are a number of troubling features in this deal that justify delaying its implementation while it is tested on a small scale around the state.

The pact allows Accenture to set up a handful of calling centers in Texas where operators would help applicants navigate the federal and state aid bureaucracy. Meanwhile, Texas Health and Human Services will lay off thousands of food stamp workers and close more than a quarter of state-run eligibility offices around the state. In their place, Accenture plans to hire staff at low hourly rates while depending on community organizations for volunteers to screen applicants, fill out Web-based forms and drive clients to the remaining offices for certification.

Six Texas Democratic members of Congress have written Eric Bost, U.S. undersecretary for food, nutrition and consumer services, to express concerns. They point out that closing state offices would require longer travel distances for clients, primarily the elderly, children and the working poor, many of whom do not speak English. They charge that the expectation of a million hours of volunteer service to make the plan work is unrealistic and ''would place an unacceptable and perhaps impossible burden on these organizations, many of whom are volunteer-run themselves.''

According to the lawmakers, including Chet Edwards of Waco, Eddie Bernice Johnson of Dallas, and Lloyd Doggett of Austin, the current plan to launch the new system statewide in 11 months ''is a reckless timetable that does not allow time to test or evaluate the new technology or its impact on food stamp recipients.''

The U.S. Senate already has banned such mass privatizations of food stamp programs. Similar legislation is pending in the House. Texas stands to lose federal food assistance funding if it goes forward with the Accenture contract and the privatization prohibition becomes law.

The issue of conflict of interest by state officials in the awarding of the contract has been raised in the past year in Houston Chronicle reports. The HHS chief information officer involved in pre-award negotiations was a former employee of a firm partnering with Accenture, and the former HHS deputy commissioner who helped develop the bidding procedures subsequently went to work for Accenture. IBM, which also sought the contract, has sued the state agency alleging bias in the awarding of the pact.

The Austin-based Center for Public Policy Priorities is urging Texas lawmakers to support a pilot program to test the Accenture system before putting it into effect statewide. As staffer Celia Hagert points out, the issue involves access to life supporting benefits for the most vulnerable Texans and is particularly important for Harris County where 13 percent of Texas food stamp recipients reside.

There are plenty of unanswered questions about the awarding of the Accenture contract and its feasibility to justify a delay in implementing this radical revamping of the way Texas administers social services. Nothing is put at risk by testing the company's ability to adequately fulfill its contract on a small scale. There's plenty to be lost in liquidating a state-run system that has worked well in the past and in potentially imperiling the health and welfare of tens of thousands of people.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, September 2, 2005.

Re Texas's misguided plan to privatize the eligibility determination process for the Food Stamp Program.

ERIC M. BOST,
Under Secretary for Food, Nutrition, and Consumer Services, Department of Agriculture, Alexandria, VA.

DEAR SECRETARY BOST: We are writing to express our deep concerns about the State of

Texas's efforts to privatize the eligibility determination process for the Food Stamp Program. As Members of Congress from Texas, we are apprehensive about the impact the State's proposal could have on low-income Texans who rely on this assistance, as well as the precedent this effort sets for such practices to be adopted throughout the Nation.

Texas proposes to replace half of the State's eligibility workers with privately contracted employees at four call centers. The State would close 99 of its 380 eligibility offices, which would mean longer travel distances for many clients, most of whom would still be required to go to an office to complete their application and be finger-imaged. The State has called on community- and faith-based organizations to donate over one million volunteer hours to assist clients in navigating the more automated system to make up for reductions in the State workforce. This would place an unacceptable and perhaps impossible burden on these organizations, many of which are volunteer-run themselves.

We believe that privatizing the Food Stamp Program offers little advantage and may put our most vulnerable citizens at risk. We are deeply concerned about the impact the proposal could have on hard-to-reach populations, in particular children, people with disabilities, and seniors seeking food assistance who may have trouble with the more automated approach to enrollment.

No state has ever privatized the determination of eligibility for Food Stamps, and the wisdom of abandoning the collective knowledge and experience of so my current eligibility workers is uncertain at best. It is impossible to estimate the number of eligible persons likely to lose Food Stamp benefits as they lose access to local offices and face-to-face interviews. Therefore, we are very concerned about the enormous consequences of this proposal. There are still many unanswered questions about the impact of such an approach on the Food Stamp program.

We know of no plan to evaluate this new approach even though the State has already signed a five-year contract that calls for an 11-month statewide rollout. We believe this is a reckless timetable that does not allow enough time to test or evaluate the new technology or its impact on Food Stamp recipients. A more thoughtful approach would be to test the system in one area for 12 months, followed by an independent evaluation. Since the contract was signed before the Food and Nutrition Service reviewed and granted approval for the plan, we urge you to adopt this more thoughtful approach as a condition of continuing receipt of federal funds.

We urge you to require the State to submit a request for a waiver of the Food Stamp law related to merit system employees conducting eligibility determinations. Should the United States Department of Agriculture decide to approve such a waiver, we urge you, at a minimum, to require Texas to pilot test the new system in a limited geographic environment for at least 12 months and to engage an independent entity to produce a formal evaluation of the pilot program before the program is permitted to expand. The geographic areas selected should be representative of Texas's diverse ethnic and linguistic population, and should encompass rural areas to determine the challenges rural residents will face in a system with such drastically reduced local services.

Should you decide to grant such a waiver, we request that you not do so before a detailed background briefing for our offices and a public hearing before Congress. The public needs to understand the implications of privatizing such a critical and basic part of the Food Stamp Programs.

We appreciate your attention to this important matter and request that you contact us regarding the actions you plan to take in this matter. Should you have any questions or concerns regarding this issue, please do not hesitate to contact us.

Sincerely,

Hon. Lloyd Doggett, Hon. Henry Cuellar, Hon. Ruben Hinojosa, Hon. Sheila Jackson Lee, Hon. Al Green, Hon Silvestre Reyes, Hon. Eddie Bernice Johnson, Hon. Charles Gonzalez, Hon. Chet Edwards, Hon. Solomon Ortiz, Hon. Gene Green.

[From the Policy Page, July 7, 2005]

HHSC AWARDS CALL CENTER CONTRACT

On June 30, the Health and Human Services Commission announced a 5-year, $899 million contract with Accenture, LLP to revamp and take over operation of the state's eligibility and enrollment systems for Medicaid, CHIP, Food Stamps, and TANF cash assistance. The contract includes maintenance of TIERS (the computer system that will support eligibility determination) and an enrollment broker program for Medicaid managed care and CHIP clients. The contract is the latest development in the state's plans to move to a more automated system for enrolling people in these benefits and will lead to the use of four call centers and an Internet application, with fewer eligibility staff and local offices. Many important details about the contract and the new system have not been released yet, including the location of office closures, whether necessary federal approvals have been granted, and the timeline for employee lay-offs and call center implementation. This Policy Page shares what we know so far about these latest developments in the state's plans to use private call centers to enroll people in public benefits.

Nuts and Bolts: Four call centers will be established to help people apply for and recertify for public benefits. Staffed primarily by Accenture employees, the call centers will be open from 8 a.m. to 8 p.m., Monday through Friday, with the ability for callers to leave a recorded message after hours. The 2–1–1 system, the state's information and referral network for social services, will be the portal to the call centers. One call center will be located in Austin, where the CHIP call center is now (this call center's duties will be folded into the new call center). The location of the other three has not been announced, although San Antonio, Tyler, and Odessa are rumored to be candidates.

In the new system people will be able to apply for benefits over the Internet or via a call center, as well as to check the status of their application through an automated phone system. Some clients will still be required to appear in person at a local office to complete their application. HHSC staff have said previously that only those clients with a finger imaging requirement (the majority of the 900,000 households on Food Stamps) will have to go to a local office. In addition, clients who request an in-person interview with a caseworker will be granted one. Emergency requests for Food Stamps (state law requires benefits to be delivered within 24 hours) are expected to be processed at local offices, rather than through the call center. The local workforce centers that assist HHSC clients with employment services (administered by the Texas Workforce Commission through a system of locally run regional workforce development boards) will still provide these services and monitor whether clients are complying with program work requirements.

One hundred (100) offices will be closed, leaving 281 open. HHSC had originally proposed closing 217 offices. An announcement about office closures is expected this month.

Role of Community-Based Organizations: When the state's plans to use call centers were first announced in March 2004, HHSC proposed using 600 volunteers and relying on over one million volunteer hours per year from nonprofit and faith-based organizations, prompting an outcry from nonprofits about their inability to take on this responsibility without compensation.

Savings: With the contract announcement, HHSC also issued a one-page summary of its cost comparison of the estimated savings possible through a state-operated integrated eligibility system versus a contracted system. HB 2292, the 2003 law that directed the state to evaluate the cost-effectiveness of using call centers, also required HHSC to determine whether the state or a private company could offer the greatest savings. HHSC's analysis claims that the contracted system offers the state 8.6% more in savings, or roughly $210 million over five years. The cost comparison attributes 1.5% of these additional savings to the difference in the cost of employee benefits under a contracted system. The source of the remaining additional savings is not identified in the summary.

The savings identified HHSC last week when the contract was announced are higher than originally projected in the March 2004 business case, which claimed $389 million in savings. At the same time, the total number of staff proposed for the new system has risen from 3,377 (proposed in March 2004) to 5,398. There are other inconsistencies between last year's business case analysis and the documents HHSC released last week when the contract was announced, including differences in the ''baseline'' budget (the cost if we stuck with the current system) projections for 2006–2010. We anticipate HHSC will release information shortly to clarify these differences.

Staff Reductions: According to an HHSC presentation to eligibility staff last month, the total number of staff in the new system—including public and private employees—will drop from 5,824 current employees (as of June 1, 2005) to 5,398. The schedule for laying off state workers and achieving the overall reduction in force has not been announced. Out of the 5,398 remaining staff, 2,500 jobs will be held private call center employees, which means the same number of state staff will lose their jobs (HHSC is committed to finding these employees different jobs within the HHS system; Accenture also has indicated a hiring preference at the call centers for former state workers). In addition to the private sector employees, there will be 2,898 state staff: 298 will be assigned to the call centers, 1,800 to the remaining field offices, 600 outstationed at hospitals and clinics, and 200 assigned to traveling ''SWAT'' teams that will respond to fluctuations in staffing needs throughout the state.

The total number of workers in the new system will be 37% higher than originally projected in HHSC's March 2004 cost-effectiveness study, which proposed staffing the new system with only 3,377 employees.

Although the proposed staffing levels are far higher than originally anticipated, the number may still be inadequate to deal with the growing workload in the system, even if the improvements anticipated from better technology and a more automated enrollment process are actually realized. Staff reductions over the last eight years have caused disruptions in services to clients and breaches in customer service, resulting in lawsuits. These cuts were made despite growing caseloads and workload and have badly damaged the foundation for the current eligibility system. Inadequate resources have been compounded by complicated eligibility

rules that vary across programs, a hard-to-serve clientele, and a constantly changing policy environment. All told, the proposed renovation faces a great deal of major repairs. While the new system may resolve some of these shortcomings, no system, no matter how efficient or modern, can make up for shortages in the workforce.

Timeline: The first call center is expected to begin operations in Austin in November 2005, with remaining call center operations and system changes phased in beginning in January 2006. The statewide roll-out is estimated to be complete by the end of 2006. This 14-month timeline may not allow adequate time to test the new technology needed to support the system or to assess clients' ability to grapple with a more automated approach to enrollment. Although pressure from the legislature—the final state budget for 2006–2007 assumed a reduction of more than 4,000 HHSC eligibility staff—may be driving such an aggressive timeline, a slower, more rational approach to such drastic changes would produce a better system in the long run while mitigating the risks of going too fast.

The Pros and Cons of Privatization: CPPP acknowledges that private companies may offer innovations and savings the state could not achieve on its own. However, although the additional 15-year savings of $210 million achievable through privatization (versus a state-run, revamped system) sounds impressive, much of these projected additional savings are likely the result of reductions in salary, health benefits, and pension plans. To make room for these savings, thousands of well-paying state jobs with family-supporting health, vacation, and retirement benefits will be replaced with lower-paying private sector jobs with fewer benefits. Most notably, according to HHSC's presentation to eligibility staff, Accenture will not contribute to dependent health benefits such as the state does for its employees, opting instead for a flexible spending account option that allows employees to set aside their own pre-tax income to pay for dependent health premiums and other out-of-pocket medical costs. The loss of employer-sponsored dependent health coverage may lead to an increase in need for publicly funded health insurance—increasing these costs for the state—or more uncompensated care that will be borne by local governments and taxpayers. With privatization also comes increased risk, which may outweigh the savings associated with outsourcing.

Other Issues and Concerns: It is also unclear whether HHSC has received the necessary approvals from the federal agencies that administer these programs and share the cost of the benefits they provide. These agencies will have to approve the cost-reimbursement methodology in the contract, the allocation of costs to the federal agencies that administer these programs, and the decision to privatize the eligibility system, which could require a waiver of federal law that HHSC has not requested. Both the Federal Food Stamp and Medicaid statutes require public employees to determine eligibility for these benefits.

□ 1345

Mr. Speaker, the idea of ensuring as much efficiency in this program, as will all, is one that I applaud. But the way that the State of Texas has gone about it is very troubling. Indeed, today's vote on this motion to instruct is a vote for food security, a vote for health security, and a vote against cronyism.

As noted in a series of reports that the Houston Chronicle undertook on this proposal, and in today's editorial, the former Texas Health and Human Services Deputy Commissioner who helped develop the bidding procedures to close down these offices and substitute the Internet and Accenture's telephone lines to who knows where then went to work for Accenture, surprisingly enough. It sounds a lot like the cronyism in Washington we have been hearing so much about lately. The situation was so bad that IBM, International Business Machines, which also bid on this contract, after this person set the procedures and then went off to work for the people who were awarded the contract, has sued the State of Texas alleging bias in the award.

My concern is that we not shift to an impersonal system that does not meet the needs of poor people in our State and at the same time, as the Houston Chronicle points out today, it is ''an unprecedented billion-dollar privatization contract,'' that the taxpayers do not end up losing even as the most vulnerable people in our society lose.

This privatization scheme relies not on experienced public servants, but it will shift more of the burden to community volunteers, to churches, and to local nonprofits. And while it is great to have those people and organizations as part of our social safety network, they cannot substitute for the experienced backup, as we found in the Hurricane Katrina disaster, of a public safety net. That is what this motion to instruct preserves.

Mr. Speaker, if you do not have access to the Internet, do not want to be put on hold indefinitely to some unknown line across the world to wherever Accenture locates its phone center, the only other alternative is to get in the car and drive. We all know if we are going to have to drive with all of the nearby offices closed to one far away, that also because of the policies of this administration the price of gasoline has gone out the roof.

I think as a practical matter, putting this scheme on hold, it is clear that the administration, the response that I got only within the last few days from an Under Secretary of Agriculture, indicating that there were concerns with the speedy nature of the way the State had gone about this proposal, concerned the Department of Agriculture. They raised a number of questions. I think this is consistent with their concerns to not rush into this.

In the event we are to move to such an insensitive system, it ought to at least be market tested. No business—and we are always hearing about the importance of running government as a business—would go off with this kind of scheme if it were introducing a new product without at least testing it. That is what we have been calling for. Before you do an experiment on all of the poor and hungry people of Texas that could spread across the country, at least do some limited testing on that proposal and see if it works or it creates more cost to the taxpayer and more pain to the hungry.

I believe that the editorial in today's Houston Chronicle sums up the problems in talking about the difficulties of relying on a handful of calling centers, closing more than a fourth of the State-run eligibility offices, not allowing time to test or evaluate the new technology or its actual impact on food stamp recipients, the conflict of interest by State officials in awarding the contract, and the call of the Center for Public Policy Priorities to support a pilot program. I also find it indeed ironic, and I agree with the chairman on the importance of not prematurely closing these Farm Service Agencies because this is what this motion to instruct also is about. I represent a number of those rural producer areas. If we are not going to close those offices, why is it again that the poor people who are applying for food stamps, that their offices get closed. That is what will happen if this motion to instruct which has been ably worded by the gentlewoman from Connecticut (Ms. DELAURO) is not adopted.

I hope my colleagues in a bipartisan way will join with the expressions of concern from the U.S. Department of Agriculture and put a stop to this until it is market tested and before this faulty experiment is foisted off on both the taxpayer and the hungry people of America.

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

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

Mr. Speaker, I want to say to the gentleman from Texas (Mr. BONILLA), his opening comments and his conversations with USDA with regard to the Farm Service Agency field offices, it sounds like we had very, very similar conversations. I think we both agree, even in light of yesterday's letter, it is good to trust but it is also good to verify.

With regard to the second portion of the motion to instruct with which the chairman has concerns, I would say that the Food Stamp Program is a Federal program. Fifty percent of the administrative costs are Federal, 100 percent of the benefits are Federal. In our bill there is $40 billion that we are about to appropriate for this program; and, in fact, I think we cannot willy-nilly make changes in the program without coming back to the Federal Government for waivers as such.

In closing, let me say this motion is the right thing to do. I would repeat it is twofold, codifying USDA's decision yesterday to keep open more than 700 FSA offices, returning jurisdiction of the issue to the hands of Congress where it belongs, and ensuring that our food stamp programs are not privatized.

With respect to FSA, I would repeat this motion is needed because even though the FSA Tomorrow Plan has been shelved for the time being, we are already hearing reports that USDA is contemplating reviving this plan, perhaps under a new name, and Congress

needs to ensure that the people impacted most directly by this plan, our farmers, have a say in how that modernization plan is carried out.

On the latter point with respect to food stamps, I would repeat, this is not just a Texas issue. The Federal Government and taxpayers all over the country pay half the cost of running the Food Stamp Program. That means that we, the Congress, have an obligation to ensure that the program is run effectively, efficiently and in compliance with the law.

The Food Stamp Program is operating with the lowest error rate it has ever had, the results of years of work by USDA, State and local employees, and bipartisan support from this institution. We do not want to see a repeat of what happened in Colorado where the State spent millions of Federal funds on a computer system that not only did not work, but prevented thousands of needy people from getting government benefits like food assistance and health insurance. Particularly with many believing the State of Texas is counting on the White House to override any efforts by USDA officials to rein in this plan, we know Congress must address this issue and do it immediately.

In all these instances, we are reminded of the same thing, that government has an obligation to people, whether it is ensuring our most needy citizens receive food stamps or our farmers receive the services they need to keep planting, harvesting, and selling crops. This is about the Congress, this institution, its role in ensuring that the American people tackle their toughest challenges together. That is our responsibility to the American people, and fulfilling that obligation is what this motion would accomplish.

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

The SPEAKER pro tempore (Mr. TERRY). Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentlewoman from Connecticut (Ms. DELAURO).

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

Ms. DELAURO. 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.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

Record votes on postponed questions will be taken later today.

PROVIDING FOR CONCURRENCE BY HOUSE WITH AMENDMENTS IN SENATE AMENDMENT TO H.R. 3971, QI, TMA, AND ABSTINENCE PROGRAMS EXTENSION AND HURRICANE KATRINA UNEMPLOYMENT RELIEF ACT OF 2005

Mr. MCCRERY. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 501) providing for the concurrence by the House with amendments in the amendment of the Senate to H.R. 3971.

The Clerk read as follows:

H. RES. 501

Resolved, That, upon the adoption of this resolution, the House shall be considered to have taken from the Speaker's table the bill H.R. 3971, with the Senate amendment thereto, and to have concurred in the Senate amendment to the bill with the following amendments:

In lieu of the matter proposed to be inserted by the amendment of the Senate to the bill, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''QI, TMA, and Abstinence Programs Extension and Hurricane Katrina Unemployment Relief Act of 2005''.

TITLE I—HEALTH PROVISIONS

SEC. 101. EXTENSION OF QUALIFIED INDIVIDUAL (QI) PROGRAM.

(a) THROUGH SEPTEMBER 2007.—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 2007''.

(b) EXTENDING TOTAL AMOUNT AVAILABLE FOR ALLOCATION.—Section 1933(g) of such Act (42 U.S.C. 1396u–3(g)) is amended—

(1) in paragraph (2)—

(A) by striking ''and'' at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting a semicolon; and

(C) 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;

''(E) for the period that begins on January 1, 2006, and ends on September 30, 2006, the total allocation amount is $300,000,000;

''(F) for the period that begins on October 1, 2006, and ends on December 31, 2006, the total allocation amount is $100,000,000; and

''(G) for the period that begins on January 1, 2007, and ends on September 30, 2007, the total allocation amount is $300,000,000.''; and

(2) in paragraph (3), in the matter preceding subparagraph (A), by inserting '', (D), or (F)'' after ''subparagraph (B)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective as of September 30, 2005.

SEC. 102. EXTENSION OF TRANSITIONAL MEDICAL ASSISTANCE (TMA) AND ABSTINENCE EDUCATION PROGRAM.

Effective as if enacted on September 30, 2005, activities authorized by sections 510 and 1925 of the Social Security Act shall continue through December 31, 2005, 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 first quarter of fiscal year 2006 at the level provided for such activities through the first quarter of fiscal year 2005.

SEC. 103. ELIMINATION OF MEDICARE COVERAGE OF DRUGS USED FOR TREATMENT OF SEXUAL OR ERECTILE DYSFUNCTION.

(a) IN GENERAL.—Section 1860D–2(e)(2)(A) of the Social Security Act (42 U.S.C. 1395w–102(e)(2)(A)) is amended—

(1) by striking the period at the end and inserting '', as such sections were in effect on the date of the enactment of this part.''; and

(2) by adding at the end the following: ''Such term also does not include a drug when used for the treatment of sexual or erectile dysfunction, unless such drug were used to treat a condition, other than sexual or erectile dysfunction, for which the drug has been approved by the Food and Drug Administration.''.

(b) CONSTRUCTION.—Nothing in this section shall be construed as preventing a prescription drug plan or an MA–PD plan from providing coverage of drugs for the treatment of sexual or erectile dysfunction as supplemental prescription drug coverage under section 1860D–2(a)(2)(A)(ii) of the Social Security Act (42 U.S.C. 1395w–102(a)(2)(A)(ii)).

(c) EFFECTIVE DATES.—The amendment made by subsection (a)(1) shall take effect as if included in the enactment of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173) and the amendment made by subsection (a)(2) shall apply to coverage for drugs dispensed on or after January 1, 2007.

SEC. 104. ELIMINATION OF MEDICAID COVERAGE OF DRUGS USED FOR TREATMENT OF SEXUAL OR ERECTILE DYSFUNCTION.

(a) 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 for the treatment of sexual or erectile dysfunction, unless such agents are used to treat a condition, other than sexual or erectile dysfunction, for which the agents have been approved by the Food and Drug Administration.''.

(b) ELIMINATION OF FEDERAL PAYMENT UNDER MEDICAID PROGRAM.—Section 1903(i) of such Act (42 U.S.C. 1396b(i)) is amended—

(1) by striking ''or'' at the end of paragraph (19);

(2) by striking the period at the end of paragraph (20) and inserting ''; or''; and

(3) by inserting after paragraph (20) the following new paragraph:

''(21) with respect to amounts expended for covered outpatient drugs described in section 1927(d)(2)(K) (relating to drugs when used for treatment of sexual or erectile dysfunction).''.

(c) CLARIFICATION OF NO EFFECT ON DETERMINATION OF BASE EXPENDITURES.—Section 1935(c)(3)(B)(ii)(II) of such 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)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to drugs dispensed on or after January 1, 2006.

TITLE II—ASSISTANCE RELATING TO UNEMPLOYMENT

SEC. 201. SPECIAL TRANSFER IN FISCAL YEAR 2006.

Section 903 of the Social Security Act (42 U.S.C. 1103) is amended by adding at the end the following:

''(e) SPECIAL TRANSFER IN FISCAL YEAR 2006.—Not later than 10 days after the date of

the enactment of this subsection, the Secretary of the Treasury shall transfer from the Federal unemployment account—

''(1) $15,000,000 to the account of Alabama in the Unemployment Trust Fund;

''(2) $400,000,000 to the account of Louisiana in the Unemployment Trust Fund; and

''(3) $85,000,000 to the account of Mississippi in the Unemployment Trust Fund.''.

SEC. 202. FLEXIBILITY IN UNEMPLOYMENT COMPENSATION ADMINISTRATION TO ADDRESS HURRICANE KATRINA.

Notwithstanding any provision of section 302(a) or 303(a)(8) of the Social Security Act, any State may, on or after August 28, 2005, use any amounts received by such State pursuant to title III of the Social Security Act to assist in the administration of claims for compensation on behalf of any other State if a major disaster was declared with respect to such other State or any area within such other State under the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricane Katrina.

SEC. 203. REGULATIONS.

The Secretary of Labor may prescribe any operating instructions or regulations necessary to carry out this title and any amendment made by this title.

Amend the title so as to read: ''To extend medicare cost-sharing for qualifying individuals through September 2007, to extend transitional medical assistance and the program for abstinence education through December 2005, to provide unemployment relief for States and individuals affected by Hurricane Katrina, and for other purposes.''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Louisiana (Mr. MCCRERY) and the gentleman from Washington (Mr. MCDERMOTT) each will control 20 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. MCCRERY).

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

Mr. Speaker, the bill before us today is a compromise between a bill that the House has previously passed dealing with unemployment insurance benefits for the affected States on the gulf coast that were devastated by Hurricane Katrina and the Senate bill which addressed the same issue.

There were other matters included in one or other of the bills, including the extension of the Transitional Medical Assistance Program, which continues Medicaid for families leaving welfare for work, the Abstinence Education Program, and the QI–1 program through which State Medicaid programs help low-income seniors pay Medicare part B premiums.

Also, this bill is completely paid for, and the pay-for in this bill is the same as it was in the House bill when it passed the House floor a couple of weeks ago, and that is to prohibit Medicare and Medicaid coverage of drugs for treatment of erectile dysfunction.

Mr. Speaker, the compromise bill today includes the very same unemployment insurance benefits that were included in the previously passed House bill. We make a few changes in the effective days of some of the programs I referred to earlier. For example, the QI–1 program in the bill before us today is extended through September 30, 2007, instead of the date of December 2006 which was included in the previously passed House bill.

In addition, the bill before us includes the Senate-passed extension of the Abstinence Education Program which was not included in our earlier-passed version of this bill.

Mr. Speaker, I would urge all Members today to do the same thing they did 2 weeks ago and support this bill and pass it to give badly needed assistance to those States along the gulf coast who are experiencing very much increased unemployment due to Hurricane Katrina.

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

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

Mr. Speaker, I want to begin by giving a weather report. In the Caribbean there is another hurricane developing called Wilma. It is a stage 5 and it is headed toward the Florida keys. So I think Members ought to be listening if they live in the State of Florida because 13 days ago we stood right here and called for an appropriate Federal response for the people in the gulf coast.

□ 1400

One that would rise to the same level of responsibility as the waters that rose and flooded the homes, hopes, and communities along the gulf coast. Our response was inadequate then, and it is only worse today. I certainly want to exempt the gentleman from Louisiana from what I say here because I know that this is not a bill that he produced. He is being sent out here by his leadership to put this bill on the floor, and it is not what he would do for the people of Louisiana.

Tens of thousands of Americans are without housing, health coverage, protection of children, and without unemployment benefits or their employment. Tens of thousands are filing for unemployment benefits; benefits are running out for thousands more. The magnitude of the disaster is unmistakable, and the Republican response has been unconscionable. This is a continuing disaster. The storm was weeks ago, but this continues.

In this time of domestic crisis, the Republican survival kit has been to give people in the gulf a teaspoon to empty the ocean out of their lives, and here we are 13 days later doing what we did 2 weeks ago. It is unlucky 13, because the Republicans have redefined the Federal response to a natural disaster to include a legislative disaster, this bill. Republicans wring their hands and they exude political concern for people affected by the hurricane, but they do not walk the talk.

Mr. Speaker, I think you can tell the President he can go to the gulf coast as many times as he wants. He has been there six already. It will not do any good, because all those people down there read the Bible and go to church on Sunday, and they know that Bible verse that says: By your deeds you shall know them. It is not the fact that you go down there and stand around for photo ops; it is what you do when you come back to Washington, D.C.

Now, there is not enough of anything, most especially the strong shoulders of the Federal Government, in this bill. This legislation offers no real relief to jobless disaster victims. It did not 13 days ago, and it does not today. We continue to ignore three major problems:

First of all, 6,000 people have already exhausted unemployment benefits in Alabama, Louisiana, and Mississippi. There is no extension for them. Another 20,000 jobless workers in these States are projected to run out of benefits by Christmas. Nothing is done for them. These workers need a federally funded extension of their benefits while they put their lives back together and search for employment.

Secondly, Mississippi, Alabama, and Louisiana had the three lowest levels of average weekly unemployment benefits in the entire Nation. In all three States, the average benefit is less than $200 a week. That is about half the poverty level for a family of four. Now, ask yourself, is that the best we can do? I mean, after we spent all that money in Iraq, is that the best we can do for the gulf coast, offer people half of poverty? The Federal Government should step in and help people get up on their feet, not down on their knees.

The third problem with this bill is the disaster-affected States are seeing an enormous surge in unemployment claims. In Louisiana alone, new claims for unemployment benefits have surged 10 times the normal level, 10 times the normal level; and State officials expect Katrina-related unemployment benefits to exceed $800 million. That money is supposed to come from a State economy that has been devastated by the loss and dislocation of 70,000 businesses. It just does not work. If you do not have people working paying unemployment insurance, you are not going to have the money to pay benefits.

Under Louisiana law, once their unemployment trust fund slips below a certain level, automatic benefit cuts for jobless workers and tax increases for employers are triggered into effect. This bill does nothing about that. That means people receiving unemployment benefits in Louisiana of less than $200 a week will see their benefits slashed by as much as $37 a week starting in January, the way things are right now.

From the beginning, the Federal response to this national disaster has been bungled, inept, and very suspect. We owe the people of the gulf coast something more than our sympathies. We know the problems, and the Federal Government can solve these problems; but we are not going to do that again today. Instead, again, the Republicans want to pass a bill that sends a lump sum of money to these hard-hit States to bear yet another burden.

The lump sum is not enough, because it covers less than half the cost of regular unemployment claims caused by the disaster. If you are going to do a lump sum, at least do a lump sum that meets what you know is happening. Do not give them half. Where are they supposed to get the other half, give them a tin cup and stand on the corner? There is no money at all to extend expiring benefits or to supplement the meager benefits currently available. With an effort like this, the Republican House is using Michael Brown's FEMA as a model, that is, Way to go, Brownie.

Ask people in the shelters, ask people with no place to call home, ask Americans on any street corner, and they would be embarrassed all over again. We are giving $500 million. It sounds like a lot of money, right? We have $25 billion in the fund that we could use for this purpose. We are out of touch, and the people in Louisiana and Alabama and Mississippi are running out of time.

As things stand, it is really getting worse every day for disadvantaged Americans, and we are making them pay for the folly. The majority will locate the storm directly over the heads of every disadvantaged and disenfranchised American. Fiscal offsets did not concern Republicans when they gave every millionaire a $100,000 tax break or charged the people of the United States $215 billion for an illegal war in Iraq. We could put that on future generations, but not this bill. This one we have to put on the backs of the people. We had to find offsets; we had to cut something to meet the needs of Americans affected by one natural disaster.

Republicans demanded that the disadvantaged pay the price. Their response is to put food on the table of one American family by making it harder on the folks next door. Share the pain? No, no, no. Republicans shift the blame and the pain to the least able to fight back.

Mr. Speaker, President Bush went down and promised that we would do whatever it took to help these people get back on their feet. Well, it takes more than going down and standing in front of a mike and giving a photo op and then coming home and doing nothing. You have to come up here and insist that the Congress respond. The President has not done that. The people in Louisiana, Mississippi, and Alabama are waiting for the President to make good on his promise. My advice to those folks is do not hold your breath.

People across America are watching and hoping for the President to say something other than, Brownie, you have done a heck of a job.

Denial is not an appropriate response to this natural disaster, and that is what this House is doing. Responsibility and relief are what is needed and required by the Federal Government. The Republicans are in charge from top to bottom. It is time they lead with their heart and their head and not their chin. Meager is the only word that I could use here to describe what their response to Hurricane Katrina is, but that is where the Republicans are heading, another meager response.

There is still time to change the course. There is still time for the Federal Government to be an agent of good that it is supposed to be. Mr. Speaker, domestic security includes a roof over your head, a hot meal, and a helping hand to rebuild the life lost through no fault of your own. What the Republicans continue to provide is a tarp and a can and a good luck sign. We do not need thumbs up. We need wheels down, and bring the help.

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

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

Mr. Speaker, first of all, I want to thank the gentleman from California (Mr. THOMAS) and the gentleman from New York (Mr. RANGEL), chairman and ranking member of the Ways and Means Committee. I also want to thank the gentleman from Louisiana (Mr. JEFFERSON) and the gentleman from Washington (Mr. MCDERMOTT), my distinguished colleagues on the committee. A lot of people have worked hard on this issue of unemployment insurance. I also want to thank the staff of the Ways and Means Committee on both sides of the aisle, Democrat and Republican, for jumping in very early after Katrina hit to start dealing with all of these issues within our jurisdiction that affect the victims of this disaster. Thanks to the hard work of members of the committee and staff, we have been able to pass already a number of bills that the President has signed to help mitigate the disaster.

This bill before us today is one that I can assure the Members of this House and the gentleman from Washington that my State very badly wants right now; it is very badly needed. They are in fact spending money from their unemployment trust fund at a very fast clip, and their part of this $500 million will give them a badly needed infusion of cash to stop the bleeding in their own unemployment trust fund.

So although the gentleman from Washington may be right in saying that this is not enough to cover everything that the State will lose as a result of this disaster, nonetheless, it is a very, very important infusion of cash right now to my State and to Mississippi and to Alabama to help them in this very bad time shortly after the storm when unemployment is reaching its peak.

So, again, just as I did 2 weeks ago, I would urge the gentleman from Washington and others in this House not to stop this bill from passing. Work with us later to perfect other bills which may be needed when we get more evidence in as to the financial effects on these States because of the effects of the disaster, and we will certainly work with them to provide additional assistance.

Mr. Speaker, I must add that this House and indeed this Congress has passed and the President has signed over $62 billion of relief for the disaster stricken States along the gulf coast. I do not know of anyone who would call that a meager response. That is indeed a very robust response. Yes, we are experiencing some difficulties in getting that money out the door, on the ground, to the purposes for which it was intended; but those are bureaucratic problems that we have with any large government program. But the money has been appropriated, Congress has taken action, the President has signed those bills, and the money is there waiting to be spent. So I do not call that a meager response. I call that a robust response, a very quick response; and today's bill is just another step in providing an immediate response to the problems.

Again, I can assure this House that my State very badly needs the provisions of this bill today and very badly wants this bill to be passed and signed by the President. Then, if there is more needed down the road, we can come back and address that at the appropriate time; but today I believe this is an appropriate response of this House and this Congress to help these States with their immediate unemployment insurance needs to keep the taxes on their employers in those States from going up at the very time when we need to encourage businesses to restart, to reinvest, and to retire employees.

Mr. Speaker, again, I would urge passage of this very badly needed legislation today.

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

Mr. MCDERMOTT. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Speaker, today the House of Representatives is doing the right thing about health care. The QI program helps low-income beneficiaries cover the cost of the Medicare premium. Without this program, many elderly Americans would sink below poverty as they attempt to pay for doctors' visits out of pocket. That not only places the elderly at risk; it is wasteful from a fiscal perspective. When Medicare eligibles cannot afford the premium associated with doctors' visits and other outpatient services, Medicaid becomes their insurer of last resort. Absent QI, this program, more elderly Americans and individuals with disabilities would need Federal and State assistance through Medicaid in addition to their Medicare hospital coverage.

□ 1415

Investing in premium assistance now saves both Federal dollars and State dollars.

This bill also extends the Transitional Medical Assistance Program,

TMA. It provides health insurance to families as they move from welfare to the workforce. It is both a public health imperative and a jobs initiative.

Similar to the QI, it is an investment to the Federal budget in the long run, in this case by promoting workforce participation.

Ideally, today's legislation would make QI and TMA programs permanent so that these all-too-frequent reauthorizations would no longer be necessary. I hope we can work on a bipartisan basis to secure a permanent authorization.

At the beginning of my remarks I said today the House of Representatives is doing the right thing about health care. Unfortunately, yesterday they were not, this body was not. The day before this body was not doing the right thing about health care, and week before, week before, week before this they were not doing the right thing about health care.

Now, as we talk about Katrina, paying for this terrible tragedy that happened along the gulf coast, some Republicans want to cut Medicaid by $12 billion, $15 billion cut, cut other kinds of programs, increase Medicare premiums, cut out all kinds of programs that serve the working poor. Other Republicans simply want to add this cost of Katrina, as they add the $1 billion a week for the Iraq War, to the national deficit so that our kids and our grandkids can pay the cost.

Unfortunately, no Republican, to my knowledge, is standing up and saying maybe we ought to cancel the tax cuts that are for the wealthiest 1 percent of Americans. So the choice has become this. My friends on the other side of the aisle say let us give tax cuts to the wealthy, and then we have to cut Medicaid. Then we have to raise Medicare premiums. Medicare premiums already having gone up 50 percent in the last 4 years, 50 percent in the last 4 years. Seniors were just notified they are going to pay almost $90 a month for their Medicare premium, and do my colleagues know why? It is because my friends on the other side of the aisle are slavish devotees to tax cuts for the wealthiest Americans.

So, as wealthy Americans see their incomes go up and up and up, as the minimum wage has stayed flat for 5 years, as wages for 95 percent of the American people have been stagnant, we have got to give tax cuts for the wealthiest people in this country, to the richest people making over $250,000, $300,000 a year, and then we have to cut Medicaid. Then we have to increase Medicare premiums. Then we have to take from the middle class and the working poor.

It is immoral, it is wrong, and my colleagues should listen to what the gentleman from Washington (Mr. MCDERMOTT) said when he quoted from the New Testament and talked about we will be judged by our deeds. We also should think about our faith in terms of social justice. We also should think about our faith in doing to the least of these among us.

We ought to think about our faith in making this country a better place, and frankly, my friends on the other side of the aisle have failed miserably on that account.

Mr. MCCRERY. Mr. Speaker, I yield myself so much time as I may consume.

Mr. Speaker, again, I want to thank the gentleman from Ohio for his contributions to perfecting the part of this legislation that concerns the QI program and the extension of that program. His input, as well as many others in this House, were very valuable in allowing us to reach a compromise and get this bill to the floor. So I thank him for that.

With respect to Medicare premiums, we are all concerned about that. The gentleman makes a valid point. He, of course, knows very well that the Medicare premiums are simply a function of the cost of the Medicare part B program and have nothing to do with taxes of any sort in this country. We are all concerned about trying to hold down the increases in medical costs, not only for Medicare beneficiaries but for everybody in our society.

I would urge the gentleman from Ohio and others to join us in trying to attack the root causes of those cost increases, such as medical malpractice reform, which we passed through this House but we cannot quite get through the Senate. Maybe with the gentleman's help, we can get those things passed and get those costs under control so we can control the increases of the Medicare part B premium.

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

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

I think the gentleman from Louisiana should hear our comments as being supportive of the problems. It is not that we do not think they have done something. It just needs to be more, and I say it for two reasons.

One is that I think that the people of the gulf coast really are going to need more. I can predict almost without any fear at all that we will be back out here in 3 months or 2 months or 1 month or whatever asking for more money to fill up the problems. I think this paying a little at a time is just not the best way to do it, but if my colleagues have to do it that way, they have to do it that way.

The second reason I stand up here and respond in this way is that I know I come from a place where we have earthquakes, and there are Members on this floor from California who come from earthquake areas. There are places all over this country where tornadoes are a real problem, and I think we have to think of ourselves as a Federal Government that deals with the problems of any part of the United States that needs it. It may be the gulf coast right now, and we can find all kinds of problems with whatever the gulf coast did or did not do, but the people deserve our best effort here in this House.

For that reason, I intend to support this bill, and the gentleman from Ohio (Mr. BROWN) will, I am sure, and I think the gentleman has a unanimous vote here, but we took this time because we wanted to say that we thought it was necessary to think much more broadly and comprehensively about this than I think the leadership on the Republican side was willing to look at at this time. They are going to have to face it soon.

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

Mr. MCCRERY. Mr. Speaker, I yield myself so much time as I may consume.

Mr. Speaker, just in closing, again I would like to thank the gentleman from Washington (Mr. MCDERMOTT), my colleague on the Committee on Ways and Means, for being so constructive throughout this process. He has tried to offer constructive suggestions for inclusion in this legislation. Unfortunately, we have not been able to accommodate all of his requests, but we have included, for example, the flexibility with the use of this money for the States to increase benefits if they so choose on a temporary basis, to do some of things that the gentleman from Washington (Mr. MCDERMOTT) was so rightly concerned about.

So, again, I appreciate his input, as I do the input of other members of the committee on this issue, and urge all of us to continue to work together to try to appropriately respond to this disaster, as well as any others that we unfortunately experience in this country.

With that, Mr. Speaker, I would urge passage of H. Res. 501.

Mr. CUMMINGS. Mr. Speaker, I rise today to support the reauthorization of the Qualified Individual (QI–1) program, which helps over 161,000 low-income elderly and disabled Medicare beneficiaries with incomes between 120 and 135 percent of poverty to pay their Medicare Part B premiums. This critical program expired on September 30, 2005.

The Qualified Individual program saves eligible participants approximately $1,000 per year. We're talking about individuals who usually pay for most of their living expenses out of checks that range in amount from $1,097 to $1,464 per month. Just to emphasize, that equates to a meager $13,164 to $17,568 in total income per year. Needless to say, this assistance serves as a vital resource for a very vulnerable sector of our population.

Mr. Speaker, both the House and the Senate have passed bills to reinstate the program. Today, I am happy to see that the Social Services Emergency Relief and Recovery Act of 2005, H.R. 3971, a bill designed primarily to provide relief to the Hurricane victims, includes an extension of the QI–1 program, an essential subsidy for some of our neediest Medicare beneficiaries. This program comes with a comparably meager $300 million price tag and the benefit it delivers is priceless. I urge my colleagues to support passage of this bill.

In fact, Mr. Speaker, if Congress does not act soon on reauthorizing the QI program, in

December of this year, over 161,000 beneficiaries will receive a Social Security check that is reduced by a whopping $234.60 for the month. That is why over thirty-five senior organizations, including the AARP, the Gray Panthers, Alliance for Retired Americans, National Caucus and Center on Black Aged, National Council on Aging and the United Jewish Communities to name a few, have contacted Members of Congress urging immediate action on reauthorizing this program.

As many of my colleagues know, the Qualified Individual program has suffered from uncertain reauthorization and funding since it expired in 2002. Since its expiration, it has hobbled along on a series of Continuing Resolutions—falling on the mercies of our oft-hurried appropriations process. I firmly believe that this program is of utmost importance—that costs us so little when we consider its impact. We should reauthorize it with all due speed, not subject it to the hurricane relief tennis match between the House and Senate leadership.

In the alternative, H.R. 3800, a bill introduced last month by Representatives KUCINICH and LATOURETTE, of which I am a cosponsor, is a straightforward bipartisan bill to extend the Qualified Individual program for one year. I applaud these Members for their leadership on its introduction.

If we cannot wrest the QI–1 program out of the political volley surrounding hurricane funding, I urge the House leadership to bring H.R. 3800 to the floor for immediate consideration and passage. We have the power to fix this and I urge my colleagues to reauthorize the QI–1 program now.

Mr. GENE GREEN of Texas. Mr. Speaker, I rise today in support of H. Res. 501, legislation that will extend the important Transitional Medical Assistance and Qualified Individuals programs. Over the past few years, these programs have been reauthorized by short-term extensions that offer low-income beneficiaries of the programs few assurances that they will be able to depend on the benefits in the future. While I support this extension bill, Congress should be acting I today to make these programs permanent.

The TMA program provides an important incentive for low-income individuals to move off of welfare and into employment by ensuring continued access to health care. Health insurance is a critical factor in everyone's employment decisions. Without TMA, many families would have little incentive to move off of welfare and leave behind the Medicaid benefits that TANF beneficiaries often receive. TMA allows for extended health care coverage when low-income families lose traditional Medicaid benefits due to an increase in income. While four months of TMA coverage is assured under current law, the six-to-twelve month extension that families so often need falls under a legislative sunset. While our action today will extend this coverage, we should be making this extension permanent.

Likewise, we should be acting today to make Medicare's QI-1 program permanent. This program is critical for Medicare beneficiaries whose income is between 120% and 135% of the federal poverty level, as it provides these individuals with assistance with their Medicare Part B premiums. Since Qualified Individuals are not otherwise eligible for Medicaid, the QI-1 program is critical in ensuring low-income seniors' access to physician care.

Mr. Speaker, I support the efforts of the bill sponsor to swiftly enact this important legislation. However, I regret that it includes extraneous provisions that would limit Medicaid and Medicare beneficiaries' access to certain classes of prescription drugs. Physicians, not Congress, know best when a prescription drug is medically necessary, and the government should not interject in decisions between a patient and his doctor I about the proper course of treatment.

Despite those reservations, this bill offers important benefits to low-income individuals' access to health care, and I urge my colleagues to join me in supporting it.

Mr. DINGELL. Mr. Speaker, I am pleased to see that the House and Senate have finally worked out their differences to extend two programs that provide important health care assistance for low-income elderly and working families.

The Qualified Individual, QI, program provides assistance with the cost of Medicare premiums for certain low-income individuals. The Transitional Medicaid Program, TMA, provides temporary Medicaid coverage to families moving off of welfare to the workforce.

This legislation considered today merely provides a short-term extension. I continue to believe, however, that these programs should be made permanent. First, they are good programs that provide much needed assistance. Second, we should avoid the situation we find ourselves in now, particularly with respect to the QI program, where States and CMS were unsure whether or how to continue the program as funding expired on September 30.

We must also consider making program improvements to both programs that would simplify enrollment and retention of eligible individuals. I recently reintroduced legislation, H.R. 3980, the Medicare Beneficiary Assistance Improvement Act, to address this matter in the QI program. And I have also included such provisions for the TMA program in H.R. 2071, the Family Care Act of 2005, which I reintroduced earlier this year.

Finally, I have concerns about the provision we are using to pay for these extensions. This provision strikes Medicare and Medicaid coverage of particular drugs that had been previously covered. The provision, in the out years, raises more revenue than is needed for these short-term program extensions. We should have saved the remainder to use for another day. But despite these reservations, there is great urgency in extending the QI and TMA programs, so I am supporting the package.

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

The SPEAKER pro tempore (Mr. LATHAM). The question is on the motion offered by the gentleman from Louisiana (Mr. MCCRERY) that the House suspend the rules and agree to the resolution, H. Res. 501.

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

A motion to reconsider was laid on the table.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 2 o'clock and 23 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1615

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. SIMPSON) at 4 o'clock and 15 minutes p.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair announces that further proceedings on the motion to instruct conferees on H.R. 2744 will resume tomorrow.

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.

FISCAL RESPONSIBILITY IN KATRINA'S WAKE

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

Mrs. SCHMIDT. Mr. Speaker, yesterday I attended a Committee on Transportation and Infrastructure subcommittee meeting entitled ''A Vision and Strategy For Rebuilding New Orleans.'' I found it to be interesting, and I am excited for the opportunity to help rebuild one of America's great cities. It is an undertaking that we must take seriously.

Amid the allegations that Katrina evacuees' relief supplies were found in the garages of government officials, it is obvious that there is a lot of potential abuse for misspending $100 billion of Federal money. It is with this in mind that I felt the need to urge my colleagues to exercise discretion when authorizing additional funding.

Following yesterday's subcommittee meeting, I knew that I had a duty to speak on behalf of the American taxpayers. Only after intense scrutiny and with due diligence should we appropriate additional funds, making sure that government is doing its job, rebuilding the schools and infrastructure.

There were two statements given in testimony that were particularly troubling to me. First was the mayor, who wants now to have a light rail system to facilitate future evacuations. Now, I am all for rebuilding New Orleans, but this is not an opportunity to get your Christmas list out and go fishing on pet projects.

The other was the statement from the Governor. Someone on the committee asked how much money Louisiana had spent to date. She had no

idea. No idea of how much money her State has spent? How can we trust this government with our money when it cannot account for its own?

We have limited resources. This is the American taxpayers' money. We need to spend it prudently and wisely. I ask for caution in spending American taxpayer dollars.

CONTINUATION OF NATIONAL EMERGENCY WITH RESPECT TO SIGNIFICANT NARCOTICS TRAFFICKERS CENTERED IN COLOMBIA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 109–61)

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 International Relations and ordered to be printed:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act, 50 U.S.C. 1622(d), provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice to the *Federal Register* for publication, stating that the emergency declared with respect to significant narcotics traffickers centered in Colombia is to continue in effect beyond October 21, 2005. The most recent notice continuing this emergency was published in the *Federal Register* on October 20, 2004 (69 Fed. Reg. 61733).

The circumstances that led to the declaration on October 21, 1995, of a national emergency have not been resolved. The actions of significant narcotics traffickers centered in Colombia continue to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States and to cause unparalleled violence, corruption, and harm in the United States and abroad. For these reasons, I have determined that it is necessary to maintain economic pressure on significant narcotics traffickers centered in Colombia by blocking their property and interests in property that are in the United States or within the possession or control of United States persons and by depriving them of access to the U.S. market and financial system.

GEORGE W. BUSH.

THE WHITE HOUSE, *October 19, 2005.*

CULTURAL SENSITIVITY

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

Mr. MCDERMOTT. Mr. Speaker, I do not know how to get to the White House, but maybe you do. Could you please tell the President they need some cultural sensitivity training up there?

When he sends out his ambassador, his good friend, Karen Hughes, and tells the Saudi women that she sees the day when they will drive cars and they laugh at her and tell her they like the way things are, there is something amiss. We are running this war on terror as though it was a war on Islam. We must change that.

This morning's Sydney Morning Herald carries a story about our troops in Afghanistan which is very disturbing. It talks about our troops burning bodies and then saying in the villages where this happened, ''You allowed your fighters to be laid down facing west and be burnt. You are too scared to retrieve their bodies. This just proves you are the lady boys we always believed you to be. You attack and run away like women.''

Now, when one talks like that to an Arab, they are asking for it. That is not leading to peace. That is not done by culturally sensitive people who are bringing American democracy. That is the language of people who ran Abu Ghraib. That is the kind of thing that brings us down, not raises us up. No elections, no trials of Saddam will change that.

[From the Sidney Morning Herald, Oct. 19, 2005]

FILM ROLLS AS TROOPS BURN DEAD

(By Tom Allard)

U.S. soldiers in Afghanistan burnt the bodies of dead Taliban and taunted their opponents about the corpses, in an act deeply offensive to Muslims and in breach of the Geneva conventions.

An investigation by SBS's Dateline program, to be aired tonight, filmed the burning of the bodies.

It also filmed a U.S. Army psychological operations unit broadcasting a message boasting of the burnt corpses into a village believed to be harbouring Taliban.

According to an SBS translation of the message, delivered in the local language, the soldiers accused Taliban fighters near Kandahar of being ''cowardly dogs''. ''You allowed your fighters to be laid down facing west and burnt. You are too scared to retrieve their bodies. This just proves you are the lady boys we always believed you to be,'' the message reportedly said.

''You attack and run away like women. You call yourself Taliban but you are a disgrace to the Muslim religion, and you bring shame upon your family. Come and fight like men instead of the cowardly dogs you are.''

The burning of a body is a deep insult to Muslims. Islam requires burial within 24 hours.

Under the Geneva conventions the burial of war dead ''should be honourable, and, if possible, according to the rites of the religion to which the deceased belonged''.

U.S. soldiers said they burnt the bodies for hygiene reasons but two reporters, Stephen Dupont and John Martinkus, said the explanation was unbelievable, given they were in an isolated area.

SBS said Australian special forces in Afghanistan were operating from the same base as the U.S. soldiers involved in the incident, although no Australians took part in the action.

The incident is reminiscent of the psychological techniques used in Iraq's Abu Ghraib prison.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

EDUCATION FUNDING SOLUTIONS FOR THE WEST

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah (Mr. BISHOP) is recognized for 5 minutes.

Mr. BISHOP of Utah. Mr. Speaker, a couple of weeks ago I had the opportunity of addressing this body and illustrating a problem that we have, especially in the West. I think that problem can be illustrated best by two charts that we have here.

The first chart, everything that is in blue in this chart is the amount of land that is owned by the Federal Government in each State. The second one is everything that is in red are the States that are having the difficult time of actually funding their own education systems. Those are the States having the slowest growth in education.

Now, I do not think it takes a rocket scientist to realize there is a correlation between the red States having problems funding education and the blue States that are controlled by the Federal Government with all their land. It is not because these red States do not have high taxes. In fact, they have a higher tax than the yellow States. It is not because they do not have a commitment to education; they actually spend a greater percentage of their budget on education than the yellow States. The difference is, we have a cavalier attitude about public lands that we should realize hurts kids and it hurts their education in the West.

Now, there is a solution to it; and it comes with a simple fruit, it is an apple, which stands for the Action Plan For Public Lands and Education. I wish I could say I was smart enough to have thought of it, but it was actually designed by some State legislators working the Council State Governments West that recognized this problem and came up with a solution to it.

There are two bills that we have which can deal with those solutions. The first one would say, all right, take all this blue land and allow the Federal Government to pay property tax on it. If the Federal Government paid the lowest rate of property tax on the land that is owned and controlled by them in the West, in fact, in the entire Nation, they would add another $4 billion every year to the funding of public education. That is a whole lot of money for us to come up with, although you could also look at it as the fact that

the Federal Government prohibits States from raising $4 billion to solve their own problems and fund their own education processes with the way we control public lands.

Now, since that is going to have a difficult time, there is a second bill. This bill is number 3463, which says that this map was never intended to be the way it was supposed to be forever. When the western States, those from Montana down to New Mexico that have all the blue space in there, the Federal land, when they were originally admitted as States, everyone except one had in their enabling act the idea that the land should go to the Federal Government until such time as the Federal Government shall, not might or if or may, but shall dispose of the land, and 5 percent of all of the proceeds were to go back to the States for a permanent education fund to fund their education. To be honest, actually three States did not have that. They said their 5 percent was supposed to go for infrastructure and roads. But everyone was supposed to get something back from the Federal Government.

In the mid-1970s, this Congress changed the rules of the game without consulting these States and passed legislation that said our official policy will now be to keep the land and not pay the 5 percent. What bill 3463 intends to do is say, okay, fine, let them keep the land, except have the States choose 5 percent of the land that is available, and we will take some things off the table, like national parks, monuments, reservations, military installations, things that are not valuable to the States anyway. But of the remaining land that is there, let them choose 5 percent of that land for their own to put it in for the purpose of building education funds in each of those western States.

If these western States could take the 5 percent of their land that is available and couple it with the school trust lands already open to them, they could create amazing economic zones, especially in rural parts of their States, which would not only build the economy, but which would also pay for the education of their kids. Since we are in an energy crisis, much of this land would be dealing with the growth and energy and potential for that growth.

One of the things we have is a cavalier and sometimes a flippant attitude about these lands in the West. I had an administrative official say, Why are you worried about all this land? It is a bunch of useless land where nobody lives anyway, or it is all our land, so we recreate on it. What we have to realize is that this policy has actually hurt kids. The educational ability of kids growing up in the West is depressed because of this land policy.

What we need now to do is to realize that and take constructive efforts to try and change that. Allow the States in the West to have the vehicle and the ability to raise the money to fund their education system in the way they wish to do it, and House bill 3463 would actually do that.

U.S. DEBT CONTINUES TO RISE UNDER BUSH ADMINISTRATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

Mr. DEFAZIO. Mr. Speaker, well, congratulations are yet again in order to the Bush administration. They hit another milestone just last week. They ran up the 8 trillionth, trillionth dollar of debt in the name of the American people.

The U.S. debt is up 60 percent under the Bush-Cheney watch with the Republicans in charge of Congress, a 60 percent increase in the Federal debt in 5 years. That took some doing. That means every American, from the tiniest baby to the oldest senior citizen, today owes about $27,000. That is a heck of a burden to carry.

And then this year, they are touting the fact that they only have the third largest deficit in history at $312 billion. They are saying, big progress. Of course, they forget to tell you that that does not include borrowing every penny of this year's Social Security surplus of $180 billion, which is only paid for by working people, not the rich who are favored by the tax cuts. Only people who earn less than $94,000 pay Social Security taxes. They are paying $180 billion more than is necessary for the program, with the idea it is being saved.

It is not being saved. This administration is taking that money and spending it, part of it to finance tax cuts for rich people who do not pay Social Security taxes. A great noose on the taxpayers' money.

But now they are born again, right here on the floor in front of us this week, as fiscal conservatives. They say they want to pay for the Katrina disaster, but there is only one way to do it. Cut the tax cuts for the rich people? Oh, no, no, no. Wasteful spending? No. How about, let us go to the programs that are important to average Americans. Health care for seniors: they want to cut Medicare and Medicaid for seniors. Education: kids are already struggling to go to school, but cut education. They would hit at food stamps so they will be more hungry, and maybe cut back on energy assistance in a time of huge price gouging by their friends in the oil, coal, and gas industries.

Now, this is born again fiscal prudence on that side of the aisle. But what they are not telling people is not a penny of those cuts would go to pay for the Katrina disaster. No. In fact, they would, by implementing those cuts, still increase the deficit next year by a quarter of a billion dollars. Now, how can that be? I thought that money was going to pay for Katrina. No. They are going to borrow all the money to pay for Katrina. They are using those cuts to finance, guess what, more tax cuts for the richest among us. They want to make permanent the cuts in capital gains, dividends taxes, and a permanent exemption of all estates from all estate tax. That costs a lot of money.

Now, why should we do this? Well, because they believe in trickle-down economics. The way to stimulate our economy, the way to rebuild our economy is more trickle-down economics. They even, one conservative over there had the gall to say poor people do not put people to work. No, that is right. Poor people and working people do the work. But they are saying we need to shower more money on the richest among us.

During the last 2 years, 99 percent, this is from the Internal Revenue Service controlled by George Bush, their statistics, 99 percent of Americans saw real income reductions after inflation. One percent, those over $311,000, saw an increase; and one-tenth of 1 percent, those over $1.3 million, saw a huge increase in their income, mostly due to tax cuts paid for by working people and borrowing against our future. And now they have the gall to come to the floor of the House and say, if only the Republicans were in charge, this fiscal irresponsibility would stop. Excuse me. You control the White House, the House, the Senate, and the judiciary. You control everything. It is within your power. You want to pay for Katrina? Let us cut wasteful spending.

□ 1630

The President wants to borrow $1 trillion to go to Mars. They are already beginning to borrow $100 billion to go back to the Moon. Hey, JFK took us to the Moon for a fraction of the cost. Why do we need to borrow $100 billion to go back? That would pay for half of the Katrina disaster. Then we can talk about, guess what? Tax cuts for the wealthy.

If we just did not make those tax cuts permanent, we could pay for Katrina a number of times over. But oh, that would mean that rich people would pay income taxes at the same rate as working people, and that does not fit into their trickle-down theories.

There is a few other things that we could cut, agriculture subsidies. Let us say any farmer who earns over $100,000 a year will not get a taxpayer-financed subsidy where the money was borrowed, sometimes from Social Security, to subsidize that farm. That is pretty simple.

But no, they cannot go there. Or maybe we can get rid of the silly star wars fiasco. The general in charge of Star Wars has spent $100 billion on it so far, borrowed, taxpayer money, says it has a better than zero percent chance of working.

Now is that not heartening? Let us have real fiscal responsibility, not more phony bologna.

ORDER OF BUSINESS

Mr. SHUSTER. Mr. Speaker, I ask unanimous consent to speak out of order for 5 minutes.

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

There was no objection.

LITIGATION REFORM FOR RESPIRATOR MANUFACTURERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. SHUSTER) is recognized for 5 minutes.

Mr. SHUSTER. Mr. Speaker, I want to talk about a special aspect of a subject that has been in our news a great deal lately, emergency preparedness.

As a member of the Select Katrina Committee and as chairman of the subcommittee overseeing FEMA, I know that it is absolutely critical to prepare our Nation for natural disasters, terrorist attacks, or any other catastrophe and the spread of disease that could come with it.

When disasters strike, the most effective method of prevention depends, in part, on effective respiratory protection for millions who may be exposed. This protection is available through careful use of respirators, the masks, mostly disposable, that we see in pictures of first responders, emergency personnel and health care workers who are treating the sick.

The World Health Organization, for example, specifies certain respirators for use in avian flu treatments. The United States has a number of companies that manufacture respirators that are in a number of States around this country. One, Mine Safety Appliances, is headquartered in Pennsylvania and manufactures respirators in the State.

These are high quality products, recognized by industry, health care authorities and other experts as efficient, cost effective. More importantly, these products are 100 percent regulated by an agency of the U.S. Government, the National Institute for Occupational Safety and health, or NIOSH, which is part of the Centers for Disease Control in the Department of Health and Human Services.

NIOSH prescribes design standards for respirators, tests respirators in its own labs by its own professionals and monitors respirator manufacturers to ensure their products consistently meet the standards for which they are approved.

It also approves the warning labels that go on respirators to indicate what uses are and are not appropriate to emphasize the need for users to be sure that these respirators fit well.

It regulates the respirator manufacturers, but the Occupational Safety and Health Administration, or OSHA, regulates employers and prescribes what level of approved respirators should be used to protect against a particular workplace hazard.

Respirator manufacturers do not interact with respirator users. They make their products according to government standards for their uses approved by NIOSH and described on the label, but employers make the decision about whether to provide a respirator and which one to provide based on OSHA rules.

Unfortunately, in our litigation-obsessed society that separation of responsibility has not protected our respirator manufacturers from being sued in literally thousands of cases. Workers allege that a respirator was defectively designed or contained an inadequate warning label, and they got sick, and that somehow it is partly the fault of the manufacturer.

As absurd as this may sound, it is the premise for up to 30,000 individual claims brought against each major respirator manufacturer in the United States. There has been much controversy over many of these claims, since they involve workers who claim to be sick with asbestosis or silicosis.

In one situation, a Federal judge in Texas, a former nurse, found that thousands of claims were essentially without any legal or medical merit. They were produced by collusion between plaintiffs lawyers, doctors paid by the claim, and the x-ray mills that produced the diagnosis that could not survive medical review.

This corrupts the legal system and hurts most those few who are truly ill. It also threatens otherwise strong American industries like respirator manufacturing.

Our American respirator manufacturers are faced with the cost of administering and processing tens of thousands of claims. Some of these will be thrown out and some will be settled for a few hundred dollars, but each one requires thousands of dollars of research and process.

None of these cases has resulted in a trial and a judgment against a respirator manufacturer. It is the administrative cost of millions of dollars each year that are now about to exceed the net income of many companies from making respirators.

In short, we are in danger of losing a vital American industry that we are going to need desperately if disaster strikes. Whether the spread of a virus or biological terrorist attack, we already need respirators for countless industrial applications and routine medical and other health-related needs. Respirators are already providing protection from the airborne hazards that are everywhere in the recovery efforts from Hurricanes Katrina and Rita.

They also served thousands in the aftermath of September 11th. We cannot afford to have this vital industry torn down by inadequate claims with dollar signs at their hubs. That is why I am pleased to be the author, along with my original cosponsors, the gentlewoman from Pennsylvania (Ms. HART) and the gentleman from Pennsylvania (Mr. DOYLE) as well as the gentleman from Texas (Mr. SMITH), of H.R. 2357, the Respirator Access Assurance Act of 2005.

This is a very simple bill. It says that if a manufacturer has the NIOSH approval for the design and labeling of a respirator, a manufacturer cannot be sued on the basis of the detective design or failure to warn.

It would apply to any case that has not gone to trial as of the enactment and to future cases. We need this legislation, and I am working with my colleagues and the House leadership to find an appropriate opportunity to bring it to the House floor for a vote soon.

I hope my colleagues will share my concern over the need to ensure that this American industry continues to produce these vital products for emergency preparedness, and will approve this and make it the law of the land.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

(Mr. BROWN of Ohio addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

ORDER OF BUSINESS

Ms. SOLIS. Mr. Speaker, I ask unanimous consent to speak out of order for 5 minutes.

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

There was no objection.

MEDICAID CUTS AND THEIR IMPACT ON WOMEN

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. SOLIS) is recognized for 5 minutes.

Ms. SOLIS. Mr. Speaker, today I rise in strong opposition to the Republican plan to cut billions of dollars to critically needed Federal programs like the Medicaid program.

In proposing offsets for the $70 billion cost of hurricane relief, Republicans claim that they are increasing spending cuts from $35 billion to $50 billion in order to pay for the expenses recently incurred by the devastation of recent hurricanes in the gulf coast.

However, Republicans have targeted Medicaid and other important programs that serve our Nation's most vulnerable populations like women and children. The reckless Republican budget imposes painful sacrifices on low and moderate income women and their families in the name of deficit reduction.

Republicans claim that offsetting the cost of hurricane relief is fiscally responsible. However, in my opinion it is inconsistent with the decision in recent years not to offset tax cuts that cost $106 billion or supplemental funding for Iraq that has cost the U.S. nearly $251 billion, four times the cost of Hurricane Katrina.

These cuts will not go to offset the cost of the hurricane. These cuts will only be used to facilitate additional tax cuts to our Nation's wealthiest Americans, those who make well over $200,000 a year and up.

Republicans are cutting services for hard working families in my district and, instead, giving away $70 billion in new tax cuts to the wealthiest Americans. These cuts are reckless, in my opinion, and unfair to the middle and lower income families and reflect the Republican-led Congress' double standards.

Cuts to Medicaid, an already underfunded program, would have a devastating impact on women and their families by cutting vital services especially important to them. Medicaid is an important health insurance program for millions of low income elderly and disabled Americans.

State and Federal Governments have ensured that more than 53 million people, including 14 percent of low income Americans, have access to health care services through the Medicaid program. This includes 25 million children. More than 1 in every 4 children in the U.S. is covered by this program.

This also includes more than 30 percent of children with disabilities who rely on Medicaid for health coverage and services. Medicaid, as you know, provides essential care, such as family planning, breast and cervical cancer treatment, care for disabled women, to more than 16 million women, including approximately 10 million women of child-bearing age.

Nearly 1 in 10 women in the U.S. receives health care coverage through Medicaid. One-third of all poor women are covered by Medicaid, including 40 percent of single women. Mothers are twice as likely as men to qualify for Medicaid, because they are poor and in lower paying jobs that are less likely to have employer-sponsored insurance.

Health insurance, as you know, is critical to women, because mothers with health insurance are more likely to stay employed and get health care for their children than those lacking insurance. And women, as you know, of reproductive age are in a vulnerable position, because they are more likely to lack health insurance.

Medicaid accounts, as you know, for two-thirds of all of the Federal and State family planning funding nationwide. And, by the way, low income pregnant women can receive critical prenatal care when they need it without being turned away from the program.

Medicaid ensures that women receive a full spectrum of maternity coverage, including prenatal, labor and delivery and postpartum care. Medicaid, as you know, is important to the health of women of all ages, and Medicaid is the largest source of funding for women over the age of 80 living in nursing homes.

This program covers high-cost nursing homes and long-term care services.

In my State of California, the Medicaid program is run jointly by the Federal, State and local county governments. The Federal share cost in California is about 50 percent.

Medicaid in California provides vital health services to low income women who comprise right now 74 percent of the beneficiaries ages 19 and older. And in my State of California, 42 percent of all births in the State are paid for by Medicaid.

These facts demonstrate, in my opinion, that Medicaid is a significant health safety net for women and their children. The cuts in Medicaid would shut the neediest individuals out of the public health system and put the health of millions of women and children at risk. Proposing reductions without ensuring the preservation of coverage for those in need simply transfers the burden to the States that are already overstretched.

Medicaid cuts will shift costs to the States, impose higher costs to beneficiaries, and health care providers. States would be forced to reduce coverage and benefits. Despite the national tragedy, the proposed Republican budget would cut billions of dollars from Medicaid while doing nothing to make sure that we have affordable health care for Americans.

Democrats believe in strengthening and not undermining Medicaid. The Federal Government should fulfill its promise of being a reliable partner. We must protect Medicaid and maintain the current Federal commitment to this fundamental public health insurance system.

I am in strong opposition to the Republican budget, because it does not keep the best interests of women and their children in mind. I urge my colleagues to provide full funding for Medicaid, and preserve the health care safety net program that many women and children rely on currently.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. PAUL) is recognized for 5 minutes.

(Mr. PAUL addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

ORDER OF BUSINESS

Mr. MORAN of Kansas. Mr. Speaker, I ask unanimous consent to speak out of order for 5 minutes.

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

There was no objection.

WHERE IS THE U.S. BEEF IN JAPAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. MORAN) is recognized for 5 minutes.

Mr. MORAN of Kansas. Mr. Speaker, I rise this afternoon to discuss the economic harm that U.S. farmers and ranchers have experienced as a result of the Japanese embargo of U.S. beef. This issue has gone on far too long, and we in Kansas have lost our patience.

Mr. Speaker, Japan has prohibited the imports of beef from the United States since December 2003 when a single case of BSE was found in a Canadian-born animal.

Since that time, the United States has undergone rigorous and thorough surveillance programs for BSE testing and has implemented safeguards to protect human and animal health. These safeguards have far exceeded internationally recognized standards promoted by the World Organization for Animal Health, of which Japan is a member.

While the Sanitary and Phytosanitary Agreement provides that members of the WTO have the right to take measures to protect human, animal and plant health under principles of sound science, the SPS Agreement does not allow WTO members the right to discriminate and restrict trade arbitrarily.

□ 1645

The U.S. State Department, the Office of the United States Trade Representative, and the United States Department of Agriculture have worked tirelessly to reopen this market for U.S. beef, and I commend them for their efforts.

On October 23, 2004, nearly a year ago, the United States and Japan concluded an understanding that established a process to lead to the resumption of beef imports from the United States. Despite this agreement a year ago, the Government of Japan continues to delay imports of beef from the U.S. on a basis and factors not grounded in science or consumer safety.

Losing the export market to Japan is having a significant impact upon our entire industry, and it also puts at risk a well-established bilateral trading relationship. This 2-year delay has now almost totaled $3.4 billion in losses to American agriculture. Whether you are a farmer or a rancher, a beef processor or a retailer, this loss of market is having a detrimental effect upon that business, upon our rural communities, and upon the agriculture economy. The U.S. cattle and beef industries are losing $100 million each month that Japan remains closed to U.S. beef markets. Since December 2003, the U.S. meat industry has lost 10,000 jobs, mostly attributed to a loss of the export markets.

In March this year, Mr. Speaker, I introduced House Resolution 137, which currently has more than 80 co-sponsors. I encourage my colleagues to join me in sponsoring this legislation. The resolution is a sense of the House of Representatives that if the Government of Japan continues to delay in meeting its obligations under the understanding reached last October, then

the United States trade representative should immediately impose retaliatory trade sanctions against Japan.

While I do not wish for the U.S. and Japan to enter into a drawn out trade dispute, the reality is that Japan cannot have it both ways, and they must be required to uphold their agreement. The United States works to promote free trade agreements throughout the world, and it is important for our trading partners to honor the current agreements and international standards; and without those assurances, support for trade agreements will clearly erode.

Recently, I was joined by over a hundred Members of Congress in writing President Bush asking him to make restoring this market of U.S. beef to Japan his highest economic priority in his discussions with the Japanese Prime Minister. I support our government's efforts to reopen our beef exports to Japan; but, again, Japan continues to unjustifiably delay the process.

Last month I testified before the House Committee on Ways and Means and urged the committee to bring this resolution to the floor and show Japan the serious nature of this trade issue. I appreciate very much the gentleman from California (Mr. THOMAS) for holding the hearing and for allowing me to testify.

Many members of that committee during the hearing agreed that this action needs to be taken to address this issue.

Mr. Speaker, Japan cannot have it both ways. They cannot benefit from exports to the U.S. while denying our imports such as beef with no scientific evidence to support their actions. Congressional patience has been exhausted. It is time that House Resolution 137 be brought to the floor and a clear message be delivered to Japan. Let us allow the will of the House to be heard. Patience is a virtue no longer.

The SPEAKER pro tempore (Mr. SIMPSON). Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

(Ms. WOOLSEY addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

EXCHANGE OF SPECIAL ORDER TIME

Mr. EMANUEL. Mr. Speaker, I ask unanimous consent to claim the time of the gentlewoman from California (Ms. WOOLSEY).

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

There was no objection.

BUILDING A STRONG AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. EMANUEL) is recognized for 5 minutes.

Mr. EMANUEL. Mr. Speaker, since the year 2000 this Congress has racked up more than $3 trillion in new debt. How did that happen? They tried to do what no other President has tried to do and no other Congress, to fund two wars with four tax cuts.

This Congress has served as an ATM to special interests, showering them with billions in tax breaks and handouts. Suddenly our Republican friends have become born-again budget hawks. In fact, tomorrow we may have to vote on a resolution to slash more than $50 billion from education, health care, nutritional investments important to millions of Americans and families and their future. All for what? So we can fund $70 billion in tax cuts just for the wealthy Americans.

That is what this budget package is, $70 billion in tax cuts. At the same time that these so-called new-born fiscal conservatives are complaining about the deficit, they are going to push through yet another round of tax cuts on top, close to $20 billion added to our deficit.

I ask my colleagues, are these the choices the American people asked us to do? To date, the American taxpayer has funded $445 billion in the effort in Iraq, $20 billion going to rebuild Iraq. We have built and renovated 110 primary health care centers in Iraq, vaccinated 3.2 million Iraqi children; all the while here in the United States the Republican budget has cut $10 billion from Medicaid. We have also cut community health care clinics.

In Iraq we have rehabilitated 2,700 schools, trained 36,000 secondary education school teachers. What is their budget doing for America? They cut $806 million from America's public schools, Leave No Child Behind. They have also proposed nearly $9 billion in cuts to college student aid. We funded nearly 3,100 community development projects in Iraq alone. Yet the President's budget is cutting the community development grants here for the United States by $250 million.

The Corps of Engineers in the United States has been cut by over $300 million. Yet we built a new light rail system in Iraq. We have also rebuilt their dam with a levee in it. All the while their budget cuts from America's future and American families' future while literally loading up close to $445 billion for the effort in Iraq, of which $20 billion goes to rebuilding their schools, their health care, their nutritional programs, things that we are cutting from the United States and from American families.

Every President going to war has thought about America's future. During the Civil War, Abraham Lincoln thought of the Land Grant College system. President Roosevelt in the middle of the World War II thought of the G.I. Bill. President Eisenhower at the tail end of the Korean War built the interstate highway system for the United States. During the height of the Cold War and Vietnam War, President Kennedy envisioned a man on the Moon.

What does this President propose? Eliminating Amtrak, cutting $9 billion from student aid, and cutting veterans benefits. Why? Because he has tried to do something that no other President has thought of doing, which is to cut taxes in the middle of two wars. Where has it left America? $3 trillion in debt, cuts in our future for American families.

Now Americans are faced not only with these cuts in its investments. Gas prices are nearly $3 a gallon, home heating costs are up by 50 percent this winter, inflation has increased at the fastest rate in 15 years, hundreds and thousands have lost everything in the gulf coast, and our brave men and women are fighting and dying in Iraq with no end in sight.

Yet what are we proposing to America? Cuts in their educational investments, cuts in health care investments, cuts in nutritional investments. All the while we are making those same types of investments in Iraq. That is not the choice the American people want.

I have no problem if we are going to make a commitment to Iraq and Iraq's future and the future of their children. I have a problem when we are not going to leave America stronger, but weaker, at the end of that effort, and we are not willing to make that same investment in American children's future.

We cannot afford those types of choices. Those are the false choices. All the while what we are trying to do is wall off and protect tax cuts for the wealthiest 1 percent, people making $300,000 a year, while the rest of America gets cuts in Amtrak, student aid, nutritional programs, veterans get cut from their health care benefits. That is not what the American people think of as an investment in their future. It is clearly not the one you are willing to make in Iraq where we now have a $445 billion bill due to the American people. It will get close to $600 billion before it is all over. The American people are going to be asked to pay for it.

How are they going to pay for it? With cuts in their education college loans, cuts in their communities' health care clinics, cuts in Medicaid, cuts in Medicare, cuts in their programs that have guaranteed them a middle-class future. We should find ways to balance the budget, but we should not do it on the backs of our children.

The American people expect their leaders to make the right choices. Mr. Speaker, it is time Congress changes its tune. We can do better. Building a strong America begins by building a good America here at home.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. GARRETT) is recognized for 5 minutes.

(Mr. GARRETT of New Jersey 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 California (Mr. GEORGE MILLER) is recognized for 5 minutes.

(Mr. GEORGE MILLER of California addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

EXCHANGE OF SPECIAL ORDER TIME

Mr. MCDERMOTT. Mr. Speaker, I ask unanimous consent to claim the time of the gentleman from California (Mr. GEORGE MILLER).

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

There was no objection.

THE TRIAL OF THE CENTURY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. MCDERMOTT) is recognized for 5 minutes.

Mr. MCDERMOTT. Mr. Speaker, if this were a sermon, I would use as the text Romans 12:19 which says, and I want to remind the House that we are a Christian Nation, that says, Avenge not yourselves, for it is written, vengeance is mine. I will repay, saith the Lord.

Now we are in the process of beginning a trial which is going to be the trial of the century. I think the United States people and the Congress should think about what it is we are setting out to do. On Wednesday, the trial of the century will begin. It will start at a secret Green Zone location by an anonymous court and under extreme U.S. military-imposed security measures.

It is a made-in-the-USA affair in administrative and financial terms. The court and the training and the whole proceedings cost us $75 million of our taxes. About 300 people, all hired by the Americans, are working on the trial. The five secret Iraq judges, Shiites and Kurds, no Sunnis, are paid by the Americans, are living inside the Green Zone and are protected by the Americans from being either kidnapped or killed. They have received special training from U.S. and British and Australian legal experts, and they have even staged a mock trial.

If the defendant in this case is convicted, he will be able to file appeals and then will, within 30 days of those appeals being denied, be hung in that country in which he lives.

Now, this special Iraq tribunal was substituted by former American proconsul, Mr. Bremer, in December 2003, curiously almost 3 days before Saddam was captured, supposedly. Now, that is the view of this case from the Arab world. That comes from an article in the Asia Times by a reporter named Pepe Escobar, and it is called ''The Occupiers' Trial.'' This is how it is seen from the Arab world.

Now, you say, well, you know, that is just those Arabs. Pick up today's New York Times and there is the story on the editorial pages of the New York Times: ''Saddam and Iraq on Trial,'' and here is what it says: ''The opportunity created by the trial of Saddam Hussein to introduce the rule of law and the ideal of national reconciliation into Iraq has been largely squandered . . . At almost every turn, ill-conceived decisions by the United States and Iraqi-dominated Shiite religious and Kurdish nationalist parties have put politics and score-settling first.''

Remember that quote about vengeance:

''The cost has been an indifference to legal scrupulousness and they are waging a costly vendetta by Kurdish and Shiite victims against Sunni Arabs who were once their oppressors.''

That is the New York Times talking to our President who insists on doing this.

Now, the question you might ask yourself is, Why did they do it this way? I mean, any reasonable person might ask that. Well, this trial was set up this way for a variety of reasons. It should have been a scrupulously fair trial where you would have at least one Sunni among the judges. I mean, Saddam Hussein is a Sunni. We insist on a jury of your peers, and we have gone to a lot of trouble in this country to make sure there are peers on the juries, but not in this case.

We are looking to prove him personally accountable. Now, in the case in Iraq where legal training and appointments have been bent for decades to the political whims of the political, they should have called for enlisting help from international legal experts and used relevant precedents in international criminal law.

Why did they not do that? Why did they not call in an international tribunal like they did at Nuremberg at the end of the Second World War? This is the New York Times talking. Bush administration and its Iraq allies strongly oppose that step because it would have precluded the death penalty. They want a public hanging.

Now, once that decision was made, Iraq lawyers and American lawyers were the ones they were going to rely on. They were not going to get anybody national. They should have been well insulated, those people who were doing, this from political pressures. Instead, this special tribunal who organized the trial has been subject to constant manipulation and intimidation by Ahmad Chalabi. Remember him? The ceaselessly conspiring emigre politician who wants to make anti-Baathist vendettas his latest political platform.

We are setting ourselves up for a serious problem.

[From the New York Times]

SADDAM AND IRAQ ON TRIAL

The opportunity created by the trial of Saddam Hussein to introduce the rule of law and the idea of national reconciliation into Iraq has been largely squandered even before the courtroom proceedings begin. At almost every turn, ill-considered decisions by the United States and Iraq's dominant Shiite-religious and Kurdish-nationalist parties have put politics and score-settling first. The cost has been an indffference to legal scrupulousness, as well as a failure to distinguish between pursuing the specific crimes of a dictator that must be punished in a court and waging a collective vendetta by Kurdish and Shiite victims against the Sunni Arabs who were once their oppressors.

There is still time to shift this exercise in victor's Justice to a more constructive course because the trial will adjourn for several weeks after today's televised opening. For that to happen, the Iraqi lawyers and judges will have to stand-up to intense and continuing pressures from their political masters for a choreographed proceeding that seems timed to gain short-term advantages at the expense of national healing and an airing of recent Iraqi history.

When invading United States forces drove Mr. Hussein from power two and a half years ago, Americans naively expected rejoicing throughout Iraq and rapid efforts at democratic reconstruction. One main reason that did not happen, apart from the well-known mistakes by the American occupation authorities, was the arbitrary, violent and fragmented nature of the society left behind by the dictator, who had ruled through murder, fear and persecution.

One of the best ways to repair such a damaged society is a systematic judicial investigation of the regime's crimes. That should be followed by a scrupulously fair trial of those found personally accountable. In the case of Iraq, where legal training and appointments had been bent for decades to the political whims of the dictatorship, that should have called for enlisting help from international legal experts and using relevant precedents in international criminal law. The Bush administration and its Iraqi allies strongly opposed that step because it would have excluded the death penalty.

Once the decision was made to rely on Iraqi lawyers and American Advisers, they should have been well insulated from political pressures. Instead, the special tribunal organizing the trial has been subjected to constant manipulation and intimidation by Ahmad Chalabi, the ceaselessly conspiring emigré politician who has made anti-Baathist vendettas the latest political platform.

Finally, this prosecution would have been conducted differently if it were a serious attempt to uncover the murky lines of authority and responsibility within the Baathist regime and establish Mr. Hussein's clear personal responsibility for at least some of the roughly 300,000 murders committed in his name. It would have built up its case methodically, from the field operatives carrying out the killings to the officials who gave them their orders and on up the chain of command to Mr. Hussein himself.

Instead, today's trial will begin with what prosecutors and politicians decided was the easiest case to prove, a mass execution in a Shiite town that followed a failed 1982 assassination attempt against Mr. Hussein. These killings ought to be prosecuted. But if the aim is to uncover the broader criminal conspiracy in order to punish the truly guilty and absolve those guilty only by association, other trials should have come first.

What we have is a narrow sectarian government, still struggling to come up with a

nationally inclusive constitution, that is conducting what looks like a show trial, borrowing noxious elements of Baathist law to speed the way toward an early and politically popular execution.

THE OCCUPIERS' TRIAL

(By Pepe Escobar)

Occupied Iraq has virtually no security, electricity, water or jobs. Last Saturday, instead of basic necessities for a decent life, Iraqis had a referendum—already suspected of massive fraud—on a constitution few have even seen.

Starting on Wednesday, Iraqis, and the rest of the world for that matter, get a running soap opera—the trial of Saddam Hussein, under whose regime, for all its terror, and then 12 years of economic sanctions, Iraqis at least had security, electricity, water and jobs.

This ''trial of the century''—or at least the early 21st century—starts at a secret Green Zone location, by an anonymous court, and under extreme, U.S. military-imposed security measures. It's a made in U.S.A. affair—in administrative and financial terms.

The court, the training and the whole proceedings cost U.S. $75 million—courtesy of U.S. taxpayers (the budget was allocated in May 2004). About 300 people—paid by the Americans—work on the trial machinery. The five ''secret'' Iraqi judges—Shi'ites and Kurds, no Sunnis—are paid by the Americans, live inside the Green Zone and are protected by the Americans from, being kidnapped or killed.

They have received special training from U.S., British and Australian legal experts and have even staged a mock trial in London. They are supposed to be ''independent'' in a country on which ''the United States continues to wield vast influence'', according to the understated Associated Press. Human Rights Watch has warned on the record that the trial may be ''violating international standards for fair trials''.

The initial charges against Saddam will focus on the killing of 143 Shi'ites in the village Dujail, north of Baghdad, in 1982, after an assassination attempt against him. Recently disclosed images from Iraqi TV at the time show Saddam touring Dujail in triumph—but not the hostility of the crowd.

The assassination attempt was claimed by the Shi'ite Da'wa Party. Current Prime Minister Ibrahim Jaafari happens to be a leader of the Da'wa Party. As far as he's concerned, Saddam should be pronounced guilty in no time. ''We are not trying to land on the moon here . . . It's enough [to try Saddam] on Dujail and Anfal. The tribunal is just and open, he has a defense lawyer and the verdict will match the crime . . . I don't want to intervene in judicial proceedings, but why do we say now that more time is needed?''

Six other people are being tried alongside Saddam. They include his half-brother Barzan al-Tikriti—who was the head of the terror-inflicting Mukhabarat intelligence services; his notorious henchman Taha Yassin Ramadan; Awad Hamed al-Bander, the judge who sentenced many in Dujail to death; and four Ba'ath Party officials. The prosecution charges that Saddam himself, as head of state, certified the executions pronounced by an Iraqi special tribunal presided by Bander.

This won't be an American-style courtroom drama. There's no jury. The chief judge will question a number of witnesses. Many have already been interviewed before the trial. The five judges decide whether Saddam and his six co-defendants are innocent or guilty. Saddam will have the right to call witnesses.

If he is convicted, his defense team will be able to file a number of appeals before the sentence—expected to be death—is applied. If it's death row, Saddam must be executed—in fact hanged—within 30 days of the ruling on his last appeal. The description of the trial procedures is provided, once again, not by Iraqis, but by Americans—at the National Security Council and the State Department.

This special Iraqi tribunal was instituted by former American proconsull Paul Bremer in December 2003—curiously only three days before Saddam, according to the official Pentagon version, was captured in his hole on the ground. The tribunal is supposed to judge crimes committed by Iraqis—inside and outside the country—between July 17, 1968 (when the Ba'ath Party took power) and May 1, 2003, as well as war crimes perpetrated during the Iran-Iraq War (1980–1988) and the invasion of Kuwait (1990–1991).

So a string of trials may be in the offing—concerning, for starters, the Anfal campaign of 1987–1988 which killed at least 5,000 Kurds, the invasion of Kuwait in 1990, the suppression of the Shi'ite uprising of 1991 (which may have killed 200,000 people) and the widespread assassination of Shi'ite religious leaders, like the Grand Ayatollah Baqr al-Sadr.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. MARCHANT) is recognized for 5 minutes.

(Mr. MARCHANT addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

□ 1700

The SPEAKER pro tempore (Mr. SIMPSON). Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

(Mr. BURTON of Indiana addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. CUMMINGS) is recognized for 5 minutes.

(Mr. CUMMINGS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

TRIBUTE TO COAST GUARD IN EFFORTS DURING HURRICANES KATRINA AND RITA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. BUTTERFIELD) is recognized for 5 minutes.

Mr. BUTTERFIELD. Mr. Speaker, I rise today to recognize the extraordinary efforts of our Coast Guard in the aftermath of hurricanes Katrina and Rita. The Coast Guard again demonstrated just how well they live up to their Latin motto, which means: ''Always Ready.''

Several days before Katrina made landfall, the Coast Guard activated emergency response plans, while maintaining communications with both the Atlantic and Pacific commands and headquarters in Washington. As the disaster drew near, if something did not work, the Coast Guard modified its plans to meet the needs.

The first images we as Americans saw on television depicting this disaster were those of Coast Guard helicopters rescuing stranded citizens from rooftops amid rising flood waters. In the face of high winds and flying debris, daytime temperatures nearing 100 degrees and downed utility lines, our brave men and women heeded the call of duty to perform selfless acts of courage.

During around-the-clock flight operations over a 7-day period, our Coast Guard helicopters operating over New Orleans saved an astonishing 6,470 lives. They also helped to save thousands of other victims by delivering tons of food and water to those who could not be evacuated immediately. In all, the Coast Guard rescued 33,500 people in its response to Katrina, six times the number of people it rescued in all of 2004.

Mr. Speaker, I am extremely proud of the Coast Guard air crew rescue swimmers, many of whom trained at the Coast Guard Aquatic Training Facility, located in my congressional district at the Coast Guard station in Elizabeth City, North Carolina. The Coast Guard rescue swimmers faced some very adverse conditions, including flooded houses and buildings, steep slippery roofs, foul and contaminated water, and the need to hack through attics with axes or break out windows to free the survivors. Despite these obstacles, these brave men and women saved many American lives.

The Coast Guard's responses to Katrina and Rita should serve as a model for our governmental agencies and our first responders in the face of future disasters. These brave men and women succeeded in keeping these devastating events from becoming even greater tragedies. I thank the Coast Guard for their dedicated service, and I ask my colleagues to join me in congratulating them and supporting my future efforts to upgrade their training facility in my congressional district.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. STUPAK) is recognized for 5 minutes.

(Mr. STUPAK addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. RYAN) is recognized for 5 minutes.

(Mr. RYAN of Ohio addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

THE BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. MARKEY) is recognized for 5 minutes.

Mr. MARKEY. Mr. Speaker, Catholics have a sacrament, the sacrament of penance, which they call reconciliation. It is a time when you revisit your own life to take a close look at how your daily actions square with what you believe. As a Catholic, looking at this budget, I cannot square the moral values of our country, opportunity, equality and justice, with the practical impact that this budget proposal will have on the lives of working American families.

This year, thanks to President Bush's tax-cutting program, the U.S. Government will deliver up to $106 billion to the multiple bank accounts of some of the wealthiest Americans. This government program to help wealthy Americans spend more money now forces a false crunch on our resources, a $50 billion cut that Republicans believe should come from Medicaid, food stamps, and student loans. Who will feel the impact of these cuts? Well, almost 60 percent of all people in nursing homes who are on Medicaid, and one-third of all babies who are born on Medicaid, and 8 million Americans with disabilities who depend on Medicaid, and 36 million Americans who have to worry about going hungry.

How do we, as a Congress, reconcile the fact that these cuts will disproportionately affect low-income Americans, the elderly, and the poor? The answer is we should not reconcile ourselves to such an action, not for 1 minute, not for a nanosecond. If we are going to dramatically change for the worse the lives of millions of children and families and senior citizens across the country, it had better be because we had to, not because we chose to. And there is no doubt that Republicans have now chosen to rob the poor to maintain and create new tax breaks for the rich.

We are not simply robbing the poor of resources. The proposed cuts are robbing the poor of opportunity. The reconciliation budget targets programs that work to bridge the gap between rich and poor, Medicaid, food stamps, and student loans, that strive to even the playing field for all American families.

Eight weeks ago, across the United States, Americans saw the faces of other Americans staring up at them from television screens scratching out desperate signs on rooftops. Help us, the signs said. Grandmothers, brothers, nieces, nephews, newborns, the faces of families who could be our families, neighbors who could be our neighbors, but desperate, alone, and calling out to the world to see. Across the country, Americans answered with one voice: we are better than this. This is wrong. This is immoral. This must not be allowed to continue. We must take care of our own. It is our responsibility. It is our duty. It is who we are as a people.

As a country, we saw that 100,000 people were trapped in New Orleans because they did not have automobiles to escape the flood waters. We found that 50 percent of all children in Louisiana live in poverty. In response to this national revelation, Republicans have revisited our national budget and made a decision to cut programs from the poorest of the poor while protecting a new tax cut giveaway to the richest of the rich. Instead of limiting these tax cuts to millionaires, the Republicans have decided to rebuild New Orleans on the backs of the poorest people from the rest of the country.

This is a moral question, not a budget matter. The Republicans are building the high levees around their threatened tax cuts, while letting the flood swamp the programs that matter for the rest of Americans. This is what the debate is really all about. It is about our values as a Nation and how they are reflected in how we govern, how America should treat its neighbors, our fellow Americans, who by an accident of birth came into this world unable to see or who were born into a family without the means to put food on the table, or who had the misfortune to develop Alzheimer's. Should we let them starve? Should we tell their children they will never go to college because their parents cannot pay the tuition? Shall we turn them away from the hospitals because they cannot afford the care and do not have the insurance? Or should we as a country decide that in this land of plenty no one should go without basic human dignity?

As a Catholic, I was brought up to believe that character is judged by how we treat the least amongst us. This budget does not pass that test, and my hope is that tomorrow we as a Congress will rise up to defeat it.

Poverty is on the rise in our country, 37 million Americans are now in poverty.

A family of two in poverty—a single mother with her child—is living on $1,069 a month.

About 14 million Americans are living on half of poverty. A single mother with her child living at half of poverty is trying to survive on $535 a month.

That is two people living on $123.37 a week.

And each day in America 2,385 more babies are born into poverty.

The Republicans will say that society has little obligation to help the poor because they fail to take personal responsibility for their lives.

The United States has highest GDP in the world. We are first in military technology; first in military exports; first in Gross Domestic Product; first in the number of millionaires and billionaires; and first in health technology. But we rank 12th in living standards among our poorest one-fifth; 13th in the gap between rich and poor; 14th in efforts to lift children out of poverty; 18th in the percent of children in poverty; and 37th in the health status of our citizens.

We should be working to close these gaps and ensure that all Americans have a fair chance at life and are treated with basic human dignity.

Instead, this reconciliation plan will take away food, health care, education and the ability to live in dignity in old age from people who have no other options. This budget will proliferate existing inequalities.

I simply cannot reconcile this budget with my values because this budget does not reflect who we are as a nation and what we believe our responsibility is to other Americans.

We will be judged by how we take care of the least of our people.

We will be judged by our decision to turn our backs on those Americans who were driven to cry out HELP—We are your neighbors, your grandmothers, your children.

I urge my colleagues to vote "no" on this shortsighted, fiscally. irresponsible and immoral budget.

The SPEAKER pro tempore (Mr. KUHL of New York). Under a previous order of the House, the gentleman from Massachusetts (Mr. MEEHAN) is recognized for 5 minutes.

(Mr. MEEHAN 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 South Dakota (Ms. HERSETH) is recognized for 5 minutes.

(Ms. HERSETH addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

REPUBLICANS WORKING HARD TO KEEP DEFICIT SPENDING UNDER CONTROL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GOHMERT) is recognized for 5 minutes.

Mr. GOHMERT. Mr. Speaker, it is very difficult to listen to people come up and talk and talk and demagogue that, gee, the Republicans are letting the deficit grow so big, when the people that are talking about it keep promoting one giveaway after another giveaway after another giveaway. It seems to some of us that we spend half our time trying to fight off the incredible giveaway and deficit spending of those who are accusing the Republicans of letting the deficit get too big.

You bet, it is too big for me. I do not like it. I do not want to saddle my children with indebtedness, so we are working and fighting to keep some of those who are complaining across the aisle from giving away even more. So thank goodness there are some conservatives who are trying to keep the deficit down. Thank goodness we are making headway. Thank goodness the deficit is going to be $200 billion less than what was expected. We are making progress.

I cannot apologize for having tax cuts that go to those who pay taxes, because to give tax cuts to those who do not pay taxes is not a tax cut, it is a giveaway, yet another giveaway. After 9/11 we should have had another 1929-type depression, it was that devastating to this country. Yet because we had a President who pushed forward with a tax cut to those who pay taxes, we ended up having a mild recession and came charging back, as we continue to do.

So in closing, it just seems to me that people who are pushing for giveaway after giveaway, or runaway spending, and who then come in and complain about the deficit is a bit, it seems to me, like a herd of cattle standing around a lake complaining that the water does not taste all that fresh. For those of us who are fish that are trying to have clean water, it is just a little difficult to have people plopping stuff in the water that is just tough to swallow.

WTO NEGOTIATIONS ON U.S. AGRICULTURE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska (Mr. OSBORNE) is recognized for 5 minutes.

Mr. OSBORNE. Mr. Speaker, at the present time we are conducting some talks, WTO negotiations, involving the European Union. I would like to call attention to some figures that I think most people are not totally aware of.

First of all, if you compare the United States economy with the European Union, the United States economy is $11.7 trillion annually and the European Union is $9.4 trillion. So they are pretty comparable. The import tariffs we have on goods coming from the European Union into the U.S. are 12 percent, and tariffs on U.S. goods going into the European Union are 30 percent.

So we have comparable economies and yet a tremendous disparity in tariffs. This led to an agricultural trade deficit of minus $6.3 billion last year, which was the biggest deficit that we had with any entity that we were trading with for agriculture.

On export subsidies, the European Union provides $3 billion and we provide $31.5 million, so they are roughly 100 to 1 on money they spend on subsidizing their exports to other countries. As far as farm subsidies per acre are concerned, the United States subsidizes agriculture at $38 per acre with the European Union at $295 an acre. So this is a tremendous discrepancy.

One other set of data I wish to point out is that we have had two cases of BSE, or mad cow disease, in the United States. The European Union has had 189,102 in the European Union in the last 10, 15 years. Yet the European Union excludes our exports of beef into the European Union, our pork, our genetically modified crops, such as corn, and also poultry. So we are really having a very difficult time with the European Union when you look at all these figures.

Currently, we are having some preliminary WTO talks where we are looking at some ways to try to fix world trade, and I want to point out a couple of things.

□ 1715

First of all, we are proposing that the United States reduce farm subsidies 60 percent, which would mean that we would drop our subsidies from $19 billion a year to roughly $17.5 billion a year, and at the same time we are proposing that the European Union reduce agricultural subsidies to 83 percent, which would be a decrease from $80 billion down to $15 billion. That is a big drop, but still the European Union would be subsidizing double what the United States does. The European Union has rejected this offer at the present time.

I think it is important that people realize what happens in the next round of WTO talks will have great implications for the next farm bill which will be written in 2007 and go into effect in 2008. We are apt to see a move toward conservation types of payments, away from traditional types of payment.

We will have to be concerned about developing countries like Brazil. Brazil has land valued at $250 to $500 an acre. They have enough rain and topsoil to produce two crops a year. Their labor is 50 cents an hour. They can pretty well bury us if we do not provide some subsidy for our agriculture.

Lastly, I would like to issue a warning. We saw what happened to our petroleum industry. We found we could buy a barrel of oil from OPEC a few years ago for $10 a barrel. We began to get more and more from OPEC. Finally, we are pretty well dependent on foreign sources of oil. We cannot afford to let this happen to our agricultural economy. Certainly changes are in order, but I think it is important we proceed cautiously because we do not lose our food supply to foreign sources, which would be even more devastating than losing our oil supply to sources abroad.

CHILDREN'S HEALTH MONTH

The SPEAKER pro tempore (Mr. KUHL of New York). Under the Speaker's announced policy of January 4, 2005, the gentleman from Pennsylvania (Mr. MURPHY) is recognized for 60 minutes as the designee of the majority leader.

Mr. MURPHY. Mr. Speaker, I am joined by my colleagues this evening to talk about Children's Health Month. It is very important for all families in our Nation, and certainly an issue that concerns all of us on both sides of the aisle.

While the rhetoric of the House often echoes through these walls about cuts and people being harmed, it seems to me that is the only part of the discussion that we are taking away. Little offers are made in terms of what is needed.

What we do often hear is discussions of who is paying. Should individuals pay, insurance companies be taxed more, businesses be given tax cuts, perhaps health savings accounts, association health plans, or just have the Federal Government take over? But this should not just be an issue of who is paying, for although that is important, and how much we are paying is important, really much of this comes down to what we need to have is an open discussion of what we are paying for.

According to the National Center of Health Statistics, 83 percent of children in this country under 18 years of age have excellent to very good health. That is good news.

Now 17 percent of America's children are in less than favorable health, either to mild or severe levels. We have to make sure we do all we can to help these children have a better health future and help the rest remain healthy. According to the American Academy of Pediatrics, 6.3 million uninsured children, over two-thirds of all uninsured children in America, are currently eligible either for Medicaid or for the State health insurance programs, but they are not enrolled. There are many opportunities. I know the State of Pennsylvania, where I represent the 18th Congressional District, really has very good services and insurance for children of a low income level but we need to make sure that we expand enrollment and get those kids beyond. For those who are uninsured or underinsured but beyond the level of Medicaid, there are several things that we should be looking at to make sure that they get the health care they need to maintain their health to prevent higher expenses for emergency care.

But what this means is not just more discussions on we are cutting money out of Medicaid or other aspects. Look at what has happened to the growth of Medicaid. In 1995, and this is for all ages, Medicaid spent $150 billion. We are now up to $300 billion. About half of Americans are covered by some level of Federal insurance or health care. But the system is growing, and the concern is it is growing out of control.

While we are looking at such things as how do we pay for Hurricane Katrina's outcome in this devastated gulf region, how do we take care of so many needs, is it fair to just continue to say to the American people we are going to continue to spend more without finding ways of eliminating waste and fraud and abuse?

Let me give an example. The New York Times wrote recently about an amount of some $4.4 billion in Medicaid fraud in that State. One dentist billed for over 980 procedures in one day. Clearly these were patients that were actually being seen. Another company used van rides for supposedly disabled people, billing those rides to the government. But these people when followed by a reporter clearly were not disabled. They walked around just fine. There is example after example after example.

I believe the American taxpayer wants to make sure that this waste, this fraud, this abuse is removed from the health care system. But it is not just a matter of that. When it comes to our children, we also have to make sure the system works with these programs in ways that optimize the health and outcome.

One of the things that I want to talk about today, along with the gentleman from Georgia (Mr. GINGREY), is transforming our health care system. We oftentimes use a tongue-in-cheek quote around here that says one of the definitions of insanity is doing the same thing over and over again and expecting different results. Indeed, in the health care system where so much money is used inappropriately and wastefully, we ought to have some changes.

From the Center of Health Transformation, they say we have this current health care system and we are trying to come up with some reforms within the network. We try things like so much money is going to pay for diagnoses. We ask for some procedures to be done inpatient and outpatient, all within that system. What happens is if this system does not change, it will lead to some decay. The system cannot continue to go the way it is. Anyone who owns a small business or a household cannot continue to operate the way our health care system operates. When we go into hospitals, inpatient/outpatient, you will see the latest equipment, the greatest skilled personnel, MRIs, PT scans, CT scans, but very often we also see that data is kept on patients on pieces of paper. We have 21st century health technology kept on 16th century monitors. What happens, people slip through the cracks. The wrong prescriptions are ordered. Tests that are done have to be repeated because someone cannot get them.

I was talking to one of our colleagues today and he was telling me how a sonogram was done of his wife who is pregnant, but he cannot get it from here back home to his wife because he has to carry it manually. It cannot be e-mailed. We take e-mails for granted, but doctors have to wait for papers to transfer locations.

What happens? Can we come up with some real changes to really help our children? Yes, if we switch to an intelligent health system that uses electronic prescribing, electronic medical records, real patient care management for our children rather than having a system that gets bogged down and collapses of its own expense and weight, we can come up with success for our children and no longer be mired in failure.

Let me describe a little bit about what we mean by managing the whole patient. A lot of what people think happens when they have an individual or chronic disease is something common, like diabetes or asthma in a child, the doctor will examine and make sure that the child has the right medications, watches their diet and the environment around them, and hope all goes well. As long as the parents are monitoring that carefully and there is communication between doctor, nurse, patient and child, you can have a pretty good system. What happens if the information does not get to the parents, the patient education is not quite there? Maybe they skip a prescription, maybe they did not pick it up on time, maybe they do not fully understand all the elements of diet and medications for complicated diseases. What does that mean? You can end up with chronic diseases, repeat tests, many hospitalizations, emergency care may be required, increasing medications, going from doctor to doctor who may not know the other medications the child is on, leading to further risks, and all of this costs unnecessary money, unnecessary time in hospitals, increases the risk for harm, and what happens, we end up paying for it.

About 10 percent of the cases that show up in an emergency room are someone who has no ability to pay, but it is estimated that 60 percent or more, 60 percent or more of patients who show up in emergency departments are nonemergencies. If in such cases the care was given ahead of time, whether it is through a community health center, a clinic, direct patient care with a physician, if we monitored and kept a careful eye on those children with chronic conditions, we could save massive amounts of money.

This is not cutting care, it is improving care. Emergency care can cost five to eight times more than outpatient care, and we can actually save billions of dollars in the system. This is where we can find savings, and in so doing we save lives as well as money. But this means we use a chronic care model and not the inefficient going to a doctor, another disease, go to another doctor.

What this involves is not just the health system, it really involves the community, the resources. What takes place, the support systems, the families, the individuals helping to make sure they are watching their children, they are educated and they know what to do. It is making sure we have a delivery system involved with making sure doctors are notified if someone does not pick up their prescriptions. A lot of this can be done with electronic prescribing notification. It is making sure that clinical information systems are there so that if X-rays are done, procedures and tests are done, that information is communicated back to the doctor.

One study I looked at said something like 14 percent of the charts reviewed the physician found that they were missing some important data. Perhaps the physician referred the patient on to have some testing done, and it was never done. In the majority of these cases, the doctor said it would affect what diagnosis they had and future tests called for.

This is not a matter of just saying we are going to cut care, this is improving care. But this also means that clinical information systems must be there. They are a critical component of health care, of having the physician and nurse and family work together. What does that do? It is a matter of having productive interaction between everybody involved. You have an informed, active patient and you have a prepared, proactive practice team.

No longer the passive system, the doctor says here is your diagnosis, here is your prescription, good luck, call me if there is a problem. If that prescription is not filled, there is a call from the doctor. It is a system of interaction between the patient and doctor to make sure they are going back and forth.

Mr. Speaker, I am not talking about things that take place only in families that have access to computers and finances to do this. A lot of this is done in areas of low income levels, of high risk populations where we really find it is much more affordable. What we need to be looking at here as Congress is when we are reviewing such things as the Medicaid system, it is not just saying we are going to lop off $8 billion or $10 billion and see what happens. It is a matter of doing more effective work.

Much like a household that says our spending is going out of control, they do not just say let us not spend any more. Every small business and family does this. They look at what they are spending, but you have to change some of your habits and make habits more effective.

The system that seems to be adapting the slowest is our health care system, perhaps because we just keep doing the same thing over and over again and expecting different results.

What the Federal Government is going to do and what we are doing here in the Republican Conference is asking those questions and demanding some answers of changing some of that system.

What I would like to do is call upon the gentleman from Georgia (Mr. GINGREY), who as an obstetrician has worked with many families, particularly in the area of prenatal care. One of the critical areas in cutting costs and being more effective in health care is dealing with prenatal care in an effective and positive way.

Mr. Speaker, I yield to the gentleman from Georgia (Mr. GINGREY) to talk about these aspects of prenatal care, and he can tell us about some of the elements of saving money by doing more effective patient care management.

Mr. GINGREY. Mr. Speaker, I thank the gentleman from Pennsylvania (Mr. MURPHY) for leading this hour during this week of Children's Health Care Initiative and calling attention to the health of our children. The gentleman from Pennsylvania (Mr. MURPHY) has worked extensively in the field of psychology, particularly child psychology. He has actually written a book and has another coming out soon on the subject. I think as we get further into the hour, we probably will discuss a little about bit about how important a child's not only physical health but their mental health is.

□ 1730

But I do appreciate the opportunity that the gentleman has given me, Mr.

Speaker, to share some of this time with him.

My background in a prior life, my professional experience was for 30 years in the practice of medicine, and the specialty that I enjoyed practicing was obstetrics and gynecology; and we have that opportunity in that field of medicine to see a child at the very beginnings of life and know how critically important a good start is. We talk about some of the things that this Republican majority has done, some of the very good programs since President Bush has been in office, certainly not the least of which is No Child Left Behind regarding our K–12 education program. But it is so important from the health care perspective that no child is left behind from the moment of conception.

So I do want to talk a little bit about the importance of prenatal care and actually call my colleagues' attention to this one poster that I have here regarding prenatal care, entitled ''Proper Prenatal Care Leads to Healthy Children.'' No question about it. Some of the bullet points, these may be a little bit difficult to see, Mr. Speaker, but hopefully we can focus the camera in on the bullet points.

First of all, 1 million, 1 million, American women deliver babies annually without receiving prenatal care. Secondly, in the United States, more than 250,000 low birth weight infants are born each year. More than 250,000. Now, for my colleagues' understanding, a low birth weight infant is one that weighs less than 2,500 grams. That is about 5½ pounds. Those children are not all premature. In some instances they are unhealthy children who are near term, but low birth weight. But most of them, most of these 250,000 low birth weight infants are actually born premature as well.

And the third bullet point, low birth weight infants are more likely to suffer from disabilities, things like heart defects and respiratory illnesses. They are four times more likely to prematurely die than infants with a normal birth weight.

I have had many situations, Mr. Speaker, as an obstetrician having delivered over 5,000 children, where women come into the emergency room having had no prenatal care. And they are clearly the ones who are more likely to deliver these low birth weight babies and deliver them prematurely. That is why I think it is so important, and I know the gentleman from Pennsylvania (Mr. MURPHY) would agree with me, that when we emphasize the issue, the immigration issue, of securing our borders and want to make sure that every immigrant that comes into this country comes here legally and has an opportunity to get prenatal care, as, of course, many of those who come in an illegal manner are afraid or do not now how or where to get prenatal care and will just show up in the emergency room having delivered an unhealthy premature low birth weight infant, the cost of taking care of a child in that situation in the very expensive setting of an intensive care nursery, a 2-month stay, and that would not be uncommon for a very small infant, could approach easily $750,000 to $1 million worth of health care. And that, Mr. Speaker, is really just the beginning.

That is just the beginning of the cost, because if there is a disability that is long lasting or maybe even lasting a lifetime, and that is often the case, whether it is a heart defect or a musculoskeletal deformity or a mental defect as a result of lack of oxygen, sometimes even blindness, the cost is just astronomical. So it is so important, it is so important, that we do things in this Congress at the Federal level to encourage that women get prenatal care and that children are born healthy and that, indeed, no infant, not just no child left behind, but no infant is left behind.

So I just wanted to go over with my colleagues some of the things in regard to prenatal care that are so important that I always stress to my patients: of course, encouraging immunizations and vitamin supplements, monitoring of diet, increased physical activity, clearly to avoid smoking and alcohol use during pregnancy and drug use. Certainly any drug use that is nonprescription or not under the jurisdiction and guidance of a physician is to be discouraged. Environmental factors are hugely important. As I say, a healthy diet, a regular weight check, physical activity, all of these things are so important. And then to come see the physician on a regular basis during the pregnancy. This is how we avoid, Mr. Speaker, these 1 million American women delivering babies annually either without receiving prenatal care or ending up with premature deliveries.

I want to, if the gentleman would allow me, to expand on this a bit. It is not just being born healthy and well; but the first 5 years of life, what happens to the child after that is tremendously important as well. I have a grandson, little Grey Collins. He will be a year old soon. And it is so much fun to see him, and I often have that opportunity to see him, watching the little Baby Einstein tapes, that he is hugged many times a day and loved by his parents and grandparents and his aunts and uncles and how important it is to provide that love and affection to a child and let them know that they are loved, and we will get into that. I am sure the gentleman from Pennsylvania (Mr. MURPHY) will talk about that later in the hour as he discusses things like childhood obesity and childhood mental health.

But I wanted to speak a little bit about a program that we just reauthorized in the last couple of weeks here in this 109th Congress, and what I am talking about is the Head Start program. Sometimes we get criticized, we, the Republican majority, that we do not care enough about social programs and we do not care enough about the poor and underprivileged and people that do not maybe have the same opportunity that the upper middle class society has.

But let me tell the Members we do care. We do care. And this reauthorization is proof of the pudding.

Just a little historical perspective on that. Head Start and its cousin, Early Head Start or comprehensive child development programs, serving children from birth to age 5, as I stated, as well as pregnant women and their families, the critical component of the Head Start program is that it is child focused with the overall goal to increase school readiness of young children in low-income families, Mr. Speaker. The Head Start program has a long tradition of delivering comprehensive and high-quality services designed to foster healthy development in children that need our help the most.

The program provides a range of individualized services in areas of education, early childhood development, but not stopping there. It also offers medical, dental, and mental health services to these children and to their families. It even goes a step further by providing nutritional counseling and encouraging parental involvement in their child's development. It is a rich program. I have got a lot of statistics, and as we continue the hour, I will relate some of those specifics, particularly in regard to the reauthorization and how much we are doing in that program.

But I just wanted to point out, as I know the gentleman from Pennsylvania (Mr. MURPHY) agrees, how important it is that we do everything we can to make sure that our children get a good start in life. And as I have stated at the outset, the prenatal care aspect is hugely important. Programs like the Early Head Start and Head Start program so that the children, all children, when they get to that 5-year-old kindergarten class or get to the first grade, that they have an equal opportunity with their peers and they are not starting school with one hand tied behind their back. So it is hugely important that they are healthy, that they are happy, that they are loved and they have an opportunity, as we all want, in life.

At this point I will continue to be here with the gentleman from Pennsylvania (Mr. MURPHY) during this hour.

Mr. MURPHY. Mr. Speaker, reclaiming my time, I thank the gentleman for his learned information for our colleagues to be aware of not only Head Start but about prenatal care.

One program I want to mention, the National Nurse-Family Partnership, is a great example of success. It is a public-private nonprofit center. I believe it is centered in Colorado, with over 700 nurses delivering in-home prenatal care and early infant care to more than 13,000 low-income families throughout the Nation. Interestingly enough, they were able to demonstrate they could

return $4 savings for every $1 invested in these services by the time the children reach age 15 by reducing expenditures for such things as special education, emergency room visits. Again, when we use a more comprehensive patient care model, we look at the whole family and not just the individual disease, we can save money and provide care.

Secondly, I also applaud my colleague for bringing up those aspects about Head Start and Early Head Start, so critically important for families who are struggling to make ends meet to have this system that really puts the parent at the center of the child's care, making sure they are involved in all the decisions, making sure they have the information they need to have, making sure that they are, in essence, put into the role of parent and not government in the role of parent; and that makes all the difference in the world.

Let me shift into another area here, however, that is also critically important and something we dealt with today. At any point if my colleague has comments he wants to make, I certainly would encourage him to do so. But this is the area of childhood obesity. Today, we passed a bill out of the House that said that we cannot just be blaming restaurants and fast-food companies and food manufacturers when someone has obesity problems. Indeed, it is something we all have to work on and have responsibility for because whether they are healthy snacks that a person eats too much of or unhealthy snacks, whatever that is, we have to make sure that we watch our diet and have proper exercise.

Unfortunately, what has happened in this Nation, I believe it may only be the State of Illinois that still requires gym class in school, and as such, children spend much more sedentary time at home, playing video games or in front of the television, less active, and eating more during that time. This is a major contributor to childhood obesity. And what has happened in the last 10 years, and look here, the proportion of obese children has tripled since 1970. It has doubled in the last 10 years, tripled among teenagers actually during this time period, and increased incidences of disease associated with that, including such things as now we see adult onset diabetes showing up in our children. We also see heart problems showing up. We see the risks that take place with blood pressures that are showing up in children who really did not have these problems before.

This is an estimated annual cost of obesity-related diseases in the United States: $100 billion. $100 billion annual cost of obesity-related diseases. This is not something that is cured by simply having government come in and tell people what they can and cannot eat. Something has broken down in our families and our communities where we are no longer telling kids they have had enough to eat or they are not going to eat any more of that or they need to get out and play.

The annual hospital costs for obesity-related disorders in children ages 6 to 17 years of age increased from $35 million to $127 million between 1979 and 2000. It is a lack of physical exercise; 38.6 percent of United States adults report they have no leisure-time physical activity at all. The annual estimated cost for diseases associated with this physical activity in 2000 was $76 million, but we know that daily participation in physical ed classes by high school students has dropped from 42 percent in 1991 to 29 percent in 1999 and continues to decline.

□ 1745

Even though we have data that continues to tell us physical exercise is critical and important, not just for a child's physical health, but really, as we are looking at ways of managing this, we cannot continue to just pump money into the Medicaid system and into our insurance systems to cover the costs of the outcome at the end of the line.

We need to go upstream and work on some basic prevention, and that means, quite frankly, mothers and fathers across America have to work on these issues of teaching their children to be responsible for their own bodies, making sure that we, as Members of Congress, are talking about these issues, but making sure as we monitor how money is spent we are much better off looking at ways that funding could be given to communities, programs, to schools, to hospitals to help make sure we are working on prevention of obesity rather than paying the high costs at the end of the line for so much of the increases in health care because obesity has continued to climb.

Now, with obesity often comes behavioral disorders as a matter of fact. Many a child I saw in my clinical practice as a psychologist oftentimes came in a child who was well overweight, teased by their peers, struggled with this on top of their other physical problems. They oftentimes got in this downward spiral, less activity, more socially isolated. Perhaps they were teased by other kids, the butt of jokes, a sad condition, and many of these children also suffered problems with mental health.

What happens in the area of mental health is sometimes in this Chamber and our Nation, we look down upon it from a couple of different angles. We see perhaps mental health problems are some sign of softness, that perhaps people should be a little tougher, take it on the chin, not be so sensitive. Sometimes I am not sure we have advanced from the days of the Salem witch trials, and blame those who suffer from mental illness and say somehow you should have done more.

Sometimes we ridicule those who are on medication. Jokes still abound on television calling people crazy, loony, out of control, retarded, in derogatory terms, for something that we continue to see in this Nation as a sign of weakness instead of a real disease.

Again, if we are going to deal with things in the health care area, to truly reduce costs and deal with patients, we have to understand in the area of children's mental health psychological disorders are real. They are not made up. They are not indications where someone is weaker and ineffective.

There is a very strong and consistent scientific basis to say that the myth of psychological disorders and psychiatric disorders has to be debunked. Kids do have real problems. Adolescents have more problems. Adults have even more problems, and all these grow when we do not deal with these problems at an early level.

There are biological and environmental causes. It is interesting, you can have some children face tremendous difficulties in their life and they do not seem to show problems in mental outcomes, but that does not mean that those who do have problems are simply weak. Just like some of us may be exposed to the flu, some of us may eat different, and be around those who smoke and never develop any symptoms at all, where others are susceptible to them as part of their own biological genetic makeup.

Again, it does not mean they are weak or ineffective. It means a combination of the biological and environmental factors that caused this. You cannot simply say if we take care of these environmental causes it will never occur. Sometimes people say, well, maybe it is poverty that causes some of these difficulties with mental illness, and that is not the case at all. Depression, bipolar disorders, attention disorders, anxiety disorders occur at all lines of children. Boys sometimes have more than others, but there is this link between biological and environmental causes. Boys have more problems, for example, with attention disorders. Girls may have different symptoms with depression, but in all cases we also see there is a commonality between parents and grandparents having some of these diagnoses that I mentioned for anxiety, bipolar disorder, attention disorder, depression and their children. Not always children, but certainly some where you have significant environmental stresses and reactions which interact.

We may see, for example, as the outcome of the hurricanes in the gulf coast that there will be some children who live through tremendous trauma, and they may have some post-traumatic stress reactions, but it may never reach the level of post-traumatic stress disorder. It becomes a longer term debilitating factor, exhibited, for example, as such things as depression, trouble concentrating, nightmares, et cetera. It may never reach that level because they may in their own biological factors have resilience, but their family may be there to support.

The other things here is to understand that psychological disorders do

respond to treatment. This may be pharmaceutical; that is, medication, and it certainly is also matters of counseling and therapy. This is not just a matter of talking to someone, giving common-sense ideas. This is a matter of very strategic, scientifically based things such as cognitive behavioral therapy to work with patients.

We know, for example, that children with depression respond fairly well, pretty well, to some of the talk therapy or counseling to help them understand strategies to deal with problems in their life, recognize the symptoms and do their own intervention themselves to change those symptoms.

But we also know when people move from moderate to more severe levels of depression, medication, it is pretty darn helpful and sometimes almost necessary for them to have that. It does not help when we have movie stars out there saying there is no such thing as mental illness, an irresponsible statement. It does not make things go away just because you wish it to be so. I do not want situations put upon our country where we see that, again, people from Hollywood are saying, well, there is no such thing as mental illness, and therefore, we do not treat it. That is wrong. We do know that they can respond to treatment, and it is important we continue to fund in areas of Medicaid and everywhere else, Medicare, psychological, psychiatric treatment because it is helpful.

We also need to, however, carefully evaluate the treatment, the planning and follow-up assessment of these. I will give you a couple of examples.

Last year, there was a lot of discussion about some anti-depressant medication, and when some children took it, there was a higher risk for suicidal thinking, suicidal ideations we call it. What did not come up in those discussions are a couple of important factors. One, 75 percent of psychiatric medications are prescribed by nonpsychiatrists. They may be highly qualified physicians. In many cases, they may be general practitioners, pediatricians, family doctors, obstetricians. Seventy-five percent, however, and they may or may not be doing the other follow-up that is necessary.

What anti-depressant medications do is they can change a person's mood. They can help change the chemical, biological reaction that a person's central nervous system and brain of how they process stresses that can lead to the debilitation of depression, but it does not change the way a person thinks. That is why it is so important that we make sure we are funding programs that also provide the psychological therapy for children to help them understand what these thoughts are, to help them change the way they are thinking about the world so as they start to feel better they do not have more suicidal risks.

Interestingly enough, one of the things we oftentimes taught medical students in medical schools is once patients start getting better with symptoms of depression, the risk for suicide may increase because the support systems back off and they say Johnny's feeling better, we do not need to have him in the hospital or do not need to be around him as much. Perhaps people are no longer monitoring the person 24 hours a day. They start to go back to school, face more stresses.

As they are getting their energy up, as they are back in the world and thinking if we do not change the way they think with depressive thought patterns, if we do not interrupt that and change it, you can actually increase the risk for suicide. That being the case, we have to make sure that as we are looking for more effective ways of spending money, the taxpayer dollars in Medicaid and Medicare and Head Start that we are working comprehensive care with the patient, with mental illness as well, such problems as I said before about bipolar; that is, manic depressive illness, attention deficit disorder, anxiety disorders, all of these with a strong genetic component and elements where we can make huge changes in people's lives.

It is something that we need to make sure we are no longer just criticizing about overprescribing or perhaps saying that too many kids are getting stimulant medication with attention disorder; we should or should not do this.

Here is the crux of this. It really is a matter of having accurate diagnosis and treatment and making sure that we are not overmedicating or undermedicating our children. Somehow in this Chamber we politicize this to somehow think we are doing something wrong in both areas of the conservative far right, the liberal far left, somehow accuse maybe there is some conspiracies involved in this, and there is not. It is a matter of making sure the physicians have the training to deal with this. They are interacting a comprehensive care model, a patient care model, disease management model, together with people of various professions and working closely with the families.

We see this in the area of children's health when you start to look at so many aspects here that you really can make some huge differences.

I would like to point to a couple of things here and then call upon the gentleman from Georgia (Mr. GINGREY), my colleague, on a couple of questions. But one of the things to keep in mind about depression, which is one of the most common mental illnesses affecting more than 19 million Americans each year, that it can cause longer lasting forms. You can lose pleasure in life, complicate other medical conditions, can lead to suicide, but it is also associated with many other medical issues.

For example, cancer has a higher incidence of depression, stroke. Diabetes, people with diabetes have a 25 percent chance of having depression. That is higher than the rest of the population. Depression also affects as many as 70 percent of patients with chronic diabetic complications. People with heart disease, 40 to 65 percent of them will have depression, and what is interesting is untreated depression in these patients can lead to complications, such as the health care costs can double.

Now, I ask the gentleman from Georgia (Mr. GINGREY) on this, he certainly treated many a patient who had medical complications as well as some of the psychological ones, and I would like to ask him, in looking at some of these more comprehensive chronic care models, of how we need to be moving forward in a modern system of health care and not be just looking at individual disease, but how looking at more advanced forms of bringing technology and changing the system, how he sees that affecting the patient in a cost-effective way.

Mr. GINGREY. Mr. Speaker, as the gentleman pointed out, and he is so right, we need to move into the 21st century in regard to our health care system and modeling. Just trying to come up with better drugs and the latest surgery techniques to treat complicated illness is not enough. We really need to focus on preventive care.

You are talking about in the last few minutes, of course, your specialty, in talking about mental illness, and as it relates also to childhood obesity, and I could not help but think as I was listening to your discussion, and as you know, this week we just passed H.R. 554. H.R. 554 is the Personal Responsibility in Food Consumption Act of 2005. This is a bill my colleagues are aware of the fact it would not allow someone to sue a fast food manufacturer because they have gorged themselves with a multiple number of Big Macs or any other kind of fast food, or sometimes what we refer to as junk food. It is not the fault of the food industry.

I used a little analogy when I was talking about this on the floor yesterday in discussing the rule of my belt, which is a size 36. That is, I hate to admit, the size of my waist, but if I wanted really out of blind pride to suggest that I had a 24-inch waist and I cinched that belt down a couple of notches, in doing so, I put pressure, compression on something referred to as the lateral femoral cutaneous nerve, it would result in a condition of numbness and lack of feeling on the anterior thigh. Then should I go out and sue the belt company because they are at fault because I misused a product?

This is what this bill, of course, is all about, a common-sense type bill.

Parenthetically, Mr. Speaker, I also want to mention the gentleman from Florida (Mr. KELLER), the author of the bill, our good friend and colleague, is actually in the hospital now and recovering hopefully from a fairly minor condition, but we want to pay tribute to him. I know he is proud that we passed this bill this week.

The comment that I wanted to make is this issue of personal responsibility, and parents should have that personal responsibility obviously in the way they conduct themselves in regard to how they eat and a healthy diet and exercise, but even more importantly is the responsibility that they have to give a good example and instruction to their children.

I think it is probably the worst form of child abuse to let these youngsters that at a very early age overeat and become obese. You have talked about the issue of poor mental image, self-image, and of course, I also see you talked about Hollywood and, of course, this issue of there is no such thing as mental illness. I think probably they might predominate in some of those diseases, which we categorize as mental illness.

But quite honestly, when a child goes to school and there is this emphasis on thinness and you see these youngsters wearing these Britney Spears' jeans and that sort of thing, a child even a little bit overweight and certainly one that is significantly obese, of course they are going to have a poor image of themselves. They are going to withdraw, and they are going to become shy. It is very likely they are going to be picked on. How in the world can they grow and develop with a healthy self-image? No wonder they end up needing to be counseled and treated by the gentleman from Pennsylvania (Mr. MURPHY) and other mental health care specialists.

Yes, unfortunately, some even go on to harm themselves and possibly even commit suicide. So I guess the most important thing that I would want to say as a physician Member is that we need to prevent this.

□ 1800

We need to make sure that parents get the message that they have an obligation, not just to take care of themselves, but first and foremost to take care of these precious children that they bring into the world. It is their responsibility to make sure that they are from the very beginning, when they start eating at the table, to make sure that they are healthy and stay healthy so you do not have to have them ending up in your office treating them for not only mental illness but also the many complications of obesity.

You mentioned them. You mentioned diabetes, high blood pressure, so many things. And talk about the cost to this health care system of ours. We always talk about waste, fraud, and abuse in the Medicare and the Medicaid programs and wanting to eliminate that, and we are very diligent and will continue to be so. But this is almost a no-brainer. It is like we heard former Speaker Newt Gingrich say to a group of us earlier today, and the gentleman from Pennsylvania was a part of that as we had him come to speak to Members of the House. We are not talking about low-hanging fruit here in regard to saving money and saving lives. We are talking about fruit that is lying on the ground sitting there rotting waiting for us to pick it up. So clearly that is what my message would be in regard to that.

Mr. MURPHY. I thank the gentleman. I asked about another issue, too, which is one that is so critically important for children. My colleague from Georgia had mentioned before, during pregnancy, smoking being one of the risk factors. I believe that the sad statistic is that the Pittsburgh region has some of the highest maternal smoking rates during pregnancy in the Nation. My understanding is a lot of complications can come when you have a mother who smokes during pregnancy. Certainly an important part of prenatal care for our children is understanding the importance of helping a mother to stop smoking during that time.

I wonder if the gentleman can comment on some of the complications that might come for that mother and that baby not only during labor and delivery but the long-term effects for that child when the mother smokes during pregnancy.

Mr. GINGREY. Without question probably the most common condition that we see in smoking moms is something called toxemia of pregnancy. Toxemia, by the very word, it is a poison. We do not know exactly what that poison is, but something occurs in those moms that develop toxemia. It is not always because of smoking, but frequently it is. And also so often that condition will lead also to pre-term labor and delivery and one of these low birth weight infants.

In the extreme, toxemia of pregnancy before birth results in a very, very high blood pressure. It can cause a stroke, a deep coma, one from which sometimes the mother never recovers and the child is lost. So we are talking about one of the worst complications of pregnancy other than just out and out exsanguination from bleeding, which is also a possibility in any pregnancy.

But smoking, we see that condition more often. And then, of course, childhood asthma, which I am sure the gentleman has seen plenty of cases of that, youngsters that come in because there is that secondary smoke situation. Not only do they have to suffer with it during the 9 months of pregnancy of their mom; but once they are born, that smoking continues in the household. So it is a huge complication, no question about that.

Mr. MURPHY. Also, it is related to, my understanding is yet so many other aspects come from this that you may find in such children also eating disorders and diabetes and cancer risks even if that child never themselves smoked cigarettes. But the risks are huge. I believe a direct and indirect medical cost of smoking in this Nation is about $138 billion per year.

Of course, another reason why I believe it is so important not only for the government but really for individuals and businesses to focus so much on helping to change that is the State of California, for example, estimates that their statewide tobacco prevention program during the 1990s resulted in overall cost savings of $8.4 billion in health care. That is pretty remarkable.

Again, unfortunately, the way the Congress scores things with the Congressional Budget Office, when we talk about starting programs that would actually save money, my colleagues are aware of this, we never can get an accurate measure of what it actually saved because of the way the CBO, the Congressional Budget Office, scores things. It is not how much you save, but how much you spend. So if we would do similar things that would lead to a smoking cessation during pregnancy, and it might cost X number of dollars, the CBO would score that but never tell us how much money it would save over time. That is something that frustrates all of us because the things we are talking here tonight really require some expenditures to get these savings.

Businesses are picking up on this. A recent review of health promotion and disease and management programs in businesses that provided health education to their employees, including exercise, health-risk screening, weight control, nutrition information, stress management, disease screening, and smoking cessation, found a significant return in investment, saved about $1.50 to about $5 for every dollar spent in the program.

For example, Motorola, their wellness program saved the company about $4 for every dollar invested. Northeast Utilities' program in its first 24 months reduced some of the claims by about $1.4 billion. Caterpillar Company, they had a program that saved about $700 million. Johnson and Johnson's health and wellness program saved about a couple hundred dollars per employee per year.

What is interesting here is how much we can save and what we have to look at here. And I call upon my colleagues, we need to make some fundamental changes in how CBO scores these things. We have got to stop just looking at how much it costs up front and look at how much it saves in the long run. Again, I look at such things as if we are able to have more people go to federally approved health centers, community health centers in their community instead of showing up in the emergency departments, yes, it may cost money; the President called for a couple billion dollars to put into those community health centers. But if it is one-fifth of the cost of going there rather than the cost of going to the emergency departments, that is a massive cost savings.

Certainly I call upon my colleague, too, it is one of those things you have seen as well, how do we get these prevention issues begin to be scored. It is of fundamental importance to health care.

Mr. GINGREY. The gentleman is so right, and I appreciate the opportunity to weigh in on this issue.

This issue of scoring, as the gentleman is talking about, it reminds me of course of the debate during the Medicare Modernization and Prescription Drug Act that we passed in December of 2003. Of course, that part D will go into effect and the modernization piece is already in effect for Medicare, but part D, the prescription drug part, will start January 1. But all we heard and continue to hear, particularly from the other side and for those nay-sayers who keep wanting to talk negative about really a very good program that is going to be a Godsend for our neediest seniors, I talked about this on the floor, my colleagues I know heard me last night. But the talk, the emphasis is on the cost of part D, and the cost estimate is based on the number of seniors that participate ultimately.

I do not think anybody really knows, Mr. Speaker, what that number will be; but at one point it looked like the CBO said, well, it is going to be $400 billion additional Medicare cost over a 5-year period of time. Then those numbers were revised, and then we were hearing as much maybe as $750 billion. That is the scoring that the gentleman from Pennsylvania is talking about, and my colleagues understand what he means. You get no credit for the fact that many people who sign up and, yes, there will be an additional Medicare cost for them on this part D program, but the fact that they are able to take those medications, they can finally afford to take that statin to lower their cholesterol and that medication, that insulin to lower their blood sugar or whatever antihypertensive to lower their blood pressure, guess what, we get less spending on part A, the hospital part, when you end up in the emergency room with a stroke because you could not take your medicine, or you end up on the operating table for your coronary bypass or maybe even worse an amputation or a kidney transplant, and then you have this huge cost to the physician under part B.

The truth of the matter is, and what the gentleman was emphasizing, is that you get no credit for saving those costs, not to mention the fact that it is so much more compassionate to spend money on prevention rather than treatment, particularly when the treatment sometimes is not very successful and a person could ultimately be in a nursing home for years and disabled for the rest of their lives.

I will take it a step further before turning it back over to my colleague. It is the same thing, this scoring issue, in regard to the tax cuts that this Republican leadership has effected over these past 3 years. The scorers, the CBO, the number crunchers say, well, these tax cuts, the elimination of the marriage tax penalty, increasing the child tax credit from $600 an infant to $1,000 a child, giving small business men and women an opportunity to more rapidly depreciate investment in bricks and mortar and creating new jobs, all of these things, elimination of the death tax, no taxation without respiration I firmly believe in, the scorers said that was going to cost us $1.3 trillion.

My colleague remembers that. And a lot of people said, oh, we cannot afford that. What are we doing cutting taxes? Well, after about a year and a half, when we looked at our revenue stream, what was the result? We had about 225 billion more dollars, which on the scoring side we get no credit for.

So the gentleman is so right. So many of these things that we are talking about tonight in this hour, these innovations, these community health centers that the President has funded, recommended, and feels so strongly about, on the scoring side you get no credit for; but we do save money, as the gentleman points out. And just think, also, it is the compassionate, conservative thing to do for the American people.

Mr. MURPHY. I am reminded of the story of the fellow who was on his hands and knees late at night under a streetlight in the city, probably had too much to drink, and a police officer sees him and says: Excuse me, sir, what are you doing? The gentleman says: I am looking for my car keys. And the police officer says to him: Well, where did you lose them? He said: I lost them down at the end of that dark ally down there. And the policeman says: Well, why are you not looking for your keys at the end of that dark ally over there? And the gentleman says: Because there is more light over here.

Sometimes I think the way we look at these medical issues, instead of looking at the cost savings involved with prevention, we simply are able to look at how much it costs us up front because it is easier to find that data. It is tougher to pay attention to prevention.

My colleague brought up some great points. Prenatal care, Early Head Start, Head Start, what that contributes to in helping save problems. We talked about community health centers and spending money. I like the President's plan of a community health center in every county in America where there is poverty and an uninsured, can help reduce emergency visits by four-fifths, the cost of the emergency visits. It is an incredible amount of savings, but not one that we can get those scores for. And it is one of those things where, unfortunately, the political rhetoric comes through in this Chamber, and I do not know of anybody who has ever been cured by a floor speech, but it certainly is one where there is just so much talk that continues on, spending too much here, spending too much there. We need to pay attention to spending too much.

The problem is not what we are spending, but what we are spending it on. And if we are continuing to spend on wasteful or fraudulent or abusive or simply health care issues that are not taking care of the disparity of outcomes between, for example, low socioeconomic families, families that are struggling to make ends meet and feel they do not have the money to pay for their doctor visits, and those that may be in poverty, we need to work on those disparities of outcomes and make sure that we take care of those children early on; and that is why the issue of community health centers for our kids is so critically important. But, again, some will say we are spending too much, causing the budget to go up, and we cannot get the proper numbers.

Now, some of the public that may be listening is wondering why we are even talking about the CBO. But that is, unfortunately, the way this Chamber operates now and that people oftentimes look at those numbers. We have seen tremendous inaccuracies in those numbers. My colleague from Georgia spoke about those inaccuracies when it came to looking at things such as the death tax and them being off over $1 trillion in their estimates. But also it is one of those things in health care, too.

Think about this: if you take a medication that costs you $50, but it may prevent you from having a heart attack and further hospitalizations, surgery, disability, workers comp, losing your job, having the family require other care, that is a massive amount of cost savings. But, instead, we may focus on only that aspect of the cost of that medication, instead of all the other costs that are saved there. When we look at what we are doing with children's health, it is so critically important that we look at the big picture here as well.

Now, I am going to see if my colleague has any final comments to make in this area of health care. Barring that, I just want to mention a couple of final comments here.

□ 1815

We are certainly the stewards of the people's money, and although we are not here to take the place of the family, we are here to do sometimes what Abe Lincoln said. President Lincoln said, ''Governments should do that which the people cannot do for themselves.''

Now, in the areas of such things as food and consumption, people and parents ought to be watching what they eat. Well, what we also ought to be doing ourselves is working along with physicians and schoolteachers and people in the community to make sure our kids are healthy and safe and exercise and eat right.

But we also have to make sure we are working at comprehensive care, real patient care models, that involves nutrition and exercise and prevention and mental health, and integrated care of all of those things together. If we are

truly going to do what is right and decent and honorable for the next generation, it is a matter of doing what is right in health care.

It is a matter of pooling our resources together and looking at the answers, to be science-based and not emotion-based on this. The science tells us we have things we can do, but we are not yet doing. The science tells us when it comes to managing the disease it is not appropriate to just look at that individual disease, but to see how it operates in the context of the child and their family.

This is true compassion. This is where we will save lives. This is where we will save money. This is where if we do things like looking at electronic medical records, and make sure that every hospital around the Nation has this, and providers and pharmacists have these, you can find out these things and work on them together.

That is what takes place in States like Nebraska and other hospitals around the Nation. We have here an opportunity to make a huge difference, to save lives by the hundreds of thousands, and to save money by the hundreds of billions of dollars. We have that opportunity before us.

The question is, will we have the courage to work together in a bipartisan manner to do it? My hope is that our colleagues drop the gloves on this, put down the swords, stop looking for opportunities to send out sound bytes and to have people make phone calls and use it as political fodder, but instead to be able to look our constituents in the eye and say when we were all here, when we were all granted the authority to do something about America, we took an opportunity to save lives and save money, and we ought to start with our children.

I thank my colleagues.

DEMOCRATIC ALTERNATIVE TO CUTTING THE BUDGET

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, the gentleman from South Carolina (Mr. SPRATT) is recognized for 60 minutes as the designee of the minority leader.

Mr. SPRATT. Madam Speaker, as we gather here tonight to talk over the problems of the budget, our colleagues on this side of the aisle, the Republicans, are locked in a dispute over how to pay for Hurricane Katrina, the cost of which could fall between $100 and $200 billion, maybe even more, for the Federal Government alone.

Some, for the most part their most conservative Members, have proposed big cuts in programs that range from student loans, to Medicaid, to food stamps, about $50 billion in spending cuts spread over 5 years.

They present these spending cuts as a way to offset, partially at least, offset the spending increases that the response to Katrina and Rita are going to require. But in actuality these spending cuts will not go to offset Katrina, because the Republican budget, the budget resolution operative for the year 2006, the resolution to be brought to the floor to be amended, already calls for $106 billion in additional tax cuts, $106 billion in new tax cuts.

And when these new tax cuts are passed, the spending cuts proposed, ostensibly to offset the cost of Katrina, will instead go to make up for the loss of revenues due to the $106 billion in tax cuts. Since the spending cuts are $50 billion and the tax cuts are $106 billion, none of the spending cuts will ever make it to the bottom line where they might otherwise be available to offset the cost of Katrina.

So the first problem that we as Democrats have with what our Republican colleagues are pushing is that it is not what it purports to be. It is not a plan to pay for Katrina. It is a plan to facilitate $106 billion in additional tax cuts.

The second problem that we as Democrats have with their plan is that we believe the cost of helping one State sustain the catastrophic loss and cost of a natural disaster, a disaster like Katrina, Hurricane Rita, should be borne by all of us, by all of the States, should be a matter of shared sacrifice, has been in the past should be in future, it works and it is right.

But we do not believe that those least able to bear the costs should be saddled with the lion's share of the load. And yet that is exactly what their plan will do, because they are pushing a plan that will pay for the cost of Katrina by coming down hard and heavy on the backs of students borrowing to pay for their college education, on the sick whose only access to care is through Medicaid, and on the very poor who depend upon food stamps to feed their families.

This is just some of those on whom the cuts they are proposing will fall, and the reason we are proposing alternatives and opposing the plan that they are bringing to the House floor. What we have coming before the House is a plan for spending cuts that basically and simply does not achieve its stated purpose, because it does not go to cover the cost of Hurricane Katrina, and the spending cuts it does select, whether they are used to offset tax cuts or offset the costs of Katrina, as I have said, come down on some of these who are the least able to sustain and bear them.

It is fair to ask, I think, as we begin to consider such a program, why is it we are insisting upon offsets for rebuilding Biloxi or Bay St. Louis or New Orleans, but not insisting on offsets to pay for rebuilding Baghdad or Mosul or Basra.

Well, one of the reasons I believe that we are experiencing this newfound interest in offsets that might diminish the deficit is that the evidence of a swelling deficit that is not going away, it is a structural deficit, built into the budget, not a cyclical deficit deficit based on the ups and downs of the economy, one that is going to be with us for a long time to come because of fiscal decisions that were made in 2001, 2002, 2003 and 2004, is becoming so obvious, so widespread, so obvious, so significant that it simply cannot be denied.

I mean, after all the basics are apparent and they are well known. As Yogi Berra used to love to say, you can look it up, it is a matter of record. Back in the year 2000, we had a surplus of $236 billion. Matter of record. The budget was in the black by $236 billion, unprecedented. That was a budget that was inherited by Mr. Bush.

Today, just a few weeks ago as a matter of fact, the administration closed the books on fiscal year 2005, and when they closed the books they finally declared the balance at $320 billion. And they took some credit because that deficit is actually smaller than the deficit in 2004, which was $412 billion. But a $320 billion deficit is nothing to crow about.

Look at what has happened over the last four fiscal years. The simplest way to show it to you on the back of an envelope is to look at how many times our Republican colleagues have had to vote to increase the debt ceiling of the United States, and what those total increases come to since 2002.

This chart shows it to you very, very clearly. It shows that in June of 2002, despite the administration's assurance that we would not have to increase the debt ceiling, the legal limit to which the United States can borrow for another 8 years, they were back a year later saying we need an increase this year of $450 billion.

Then in May of 2003 they came back and asked for an incredible amount, $984 billion. You would think that big an increase would take you at least several years. This request was approved on May 26, 2003. By the summer of 2004 the Bush administration was back, Secretary Snow came back hat in hand saying we have just about run through the $984 billion increase you allowed us last year, we need another $800 billion increase, and before we could leave for the winter break, last November, that had to be passed.

Finally this year, we had a budget resolution on the House floor, passed the Senate, has now been passed as a concurrent budget resolution. It calls for an increase of $781 billion in the year 2006.

If you add all of these debt ceiling increases together, you will see that to accommodate, to make room for the budgets of the Bush administration over the last four fiscal years, we have had to raise the debt ceiling of the United States by $3 trillion, 15 billion.

So why do we have this newfound interest in offsets? It is because the budget is becoming undeniably unsustainable.

I yield to the gentleman from Wisconsin.

Mr. KIND. Madam Speaker, I thank the gentleman for yielding to me, and

also thank him for the leadership that he has provided on the Budget Committee and highlighting this very important issue.

I know people back home hear a lot of these numbers and figures about debt ceiling and the growth of the Federal budget deficit every year. But what is different this time I think is the most disconcerting aspect of what you are talking about this evening, and that is this new debt that is being created is not owned by ourselves any more. We are dependent on foreign entities; namely, China and Japan, as the number one and number two purchasers of this government debt that we are racking up.

These are IOUs that are going to those countries rather than to our own citizens or to our own investors in this country, and we are becoming more and more beholden to those interests, especially China, in order to help us finance these deficits.

From my perspective, I think it is incredibly dangerous and not in our best long-term economic or security interests to be so dependent on China to be financing the deficits of this magnitude, which have been taking place in recent years.

Mr. SPRATT. Madam Speaker, the gentleman is absolutely right. First of all, foreigners are picking up the lion's share of our debt for now. It cannot go on forever. We know that. No borrower can go back to his creditors continually and endlessly and ask to borrow more and more.

But it has had an effect. It has kept interest rates low, because foreigners are borrowing our debt. When they quit buying it in large shares, we are going to see a rise in interest rates, it is going to have a significant effect on our economy.

Let me just show you the path we are on right now, to illustrate why the word not on a ''sustainable'' path has become commonplace in Washington today. Our trade deficit, our budget deficit are simply not sustainable paths.

This September, just a month or so ago, CBO, by law, presented a budget update, economic update which they are required to present. We asked them to take this projection of the economy and the budget over the next 10 years and adjust it for assumptions that would capture the essence of the Bush budget.

For example, we said assume that the tax cuts passed in 2001, 2002 and 2003 will be extended when they expire in 2009, 2009 and 2010. We asked them to assume that we fix somehow the alternative minimum tax so it only affects the same number of taxpayers as it affects presently.

We asked them to assume that there will be a drawdown beginning next year, this year, in the troop levels in Afghanistan and Iraq to the point where there are about 20,000 in each theater, and there will be a steady state like that.

And we asked them to assume that the President's proposal for Social Security privatization is enacted. Factor all of these into the budget. Extend the budget out 10 years. And CBO, we said, tell us what the results are. And here are the results on this chart, and they are very stark.

The budget deficit for last year, 2005, was $319 billion. Under the assumptions I have just outlined, that deficit will go to $640 billion. It will double over the next 10 years. The debt of the United States held by the public and held by foreigners will increase from $4.6 trillion to $9.2 trillion. It too will double.

And debt service, the interest we pay on the national debt, net interest that we pay on the national debt held by the public will increase almost threefold, going from $182 billion to $458 billion.

That is why we say there is a debt tax implicit in this budget. There may be tax cuts today, but tomorrow if there is one thing obligatory in the budget, it is interest on the national debt.

□ 1830

It has to be paid or the credit of the United States will collapse. And look at what we are leaving our children, the burden we are leaving them to bear and the increase in debt service which buys nothing for the government, breeds cynicism of our government because when the citizens are paying $458 billion in interest on the national debt and seeing nothing in return for it except for the fact that the bond holders of America are getting interest payments, they get cynical for what government can do for them for charging such high taxes and doing so little in return.

The debt of the United States will increase from 37 percent to 46 percent of the GDP. That is the path we are on now, and that is the path everyone knows is not sustainable.

Mr. ETHERIDGE. Madam Speaker, I think what the gentleman has pointed out, if our colleague were taking in context of where we were on 9/11 when New York was hit, we had a surplus, and when that hit we had the resources of this government, as bad as it was, to help put this thing back together.

Mr. SPRATT. We had some resilience.

Mr. ETHERIDGE. We had some resilience. We had balance. We did not have to say we are going to look for offsets to help the people of New York get back on their feet. They are still recovering, but we did the right thing.

I was down in Louisiana last weekend with members of the Committee on Agriculture. That is what makes this such an important night in what we are doing.

We went to the food bank, the food bank in New Orleans, and really for Louisiana and the larger area the food they handed out last month was half what they had given out in one month the whole year last year. And we are looking at folks who have lost their jobs, who have lost their homes, who have lost everything they have, and we are saying that in this budget that we are going to offset against those folks?

The gentleman has pointed out so many times we in this country help one another. It is not about taking from one group to fix another group. And as we look at these numbers, we literally are taking from our children and our grandchildren so folks today can live the high life. That is wrong.

In the budget cuts we are going to be seeing coming down the road, the result of some of the policies that have been put in place over the last several years, we are going to see children denied an opportunity for education, a higher education. We are going to see heating bills for folks going up this year because of energy prices going through the roof, and they will not have money to pay those bills because we will not have the resources to help. These are the consequences of bad policy decisions that have been made in this body.

Mr. SPRATT. They are becoming so abundantly evidenced that they cannot be overlooked or denied any longer. That is the point I am trying to make.

Mr. ETHERIDGE. Absolutely. The gentleman is right on target.

I saw that this weekend firsthand and I am sure others have as they have been there. This is important that we share this with our colleagues and folks tonight so they will understand that budgets are things that you do not pay much attention to sometimes until, as we say back on the farm, the chickens come home to roost, and they are not coming home to roost.

Mr. SCOTT of Virginia. Madam Speaker, I would like to thank the gentleman from South Carolina for his comments. I want to get back to the chart where he has debt service in 10 years of $458 billion. When you use big numbers like that, sometimes I like to put them into perspective. At $45,000 each with that money which is just going down the drain, you could hire over 10 million Americans for $458 billion, at $45,000 each, 10 million. There are less than 9 million unemployed today, drawing unemployment. So that is just money right down the drain.

You can hire everybody that is on unemployment, have money left over, and a $45,000 a year job for the money that we are going to waste on debt service because we have let this deficit get out of control.

In the deficit for 2015, the gentleman has listed $640 billion. We need to put that number in perspective. The entire revenue from the individual income tax, what everybody pays in individual income tax, is approximately $800 billion. They have overspent, gone in the hole $640 billion. You just wonder how bad it would have to get before they realized that this just is unsustainable.

Mr. SPRATT. Let me make two points before I yield again.

First of all, we all believe that disaster relief should be a program of

shared sacrifice. We should all want to pitch in and help the people of New Orleans and Bay St. Louis and the gulf coast. No question about it. But when you spread that burden across our whole country, and that is the way we should do it, it should be spread equitably and evenly and fairly.

The second problem we have with what is being proposed and pushed right now, is that the costs would not come down evenly and equitably, but they would come down heavily on, in many cases, those least able to bear the burden. We do not think that is the way it should be done. We are not saying it should not be paid for in some respect or stretched out over time. We are simply saying, when and if it is paid for it ought to be equitably distributed.

Let me make one other final point by saying that if you look at our charts here you will see that in the year 2015, way down here in the corner of this particular chart, the deficit will be $640 billion. That does not assume anything for Hurricane Katrina because it had not happened when these numbers were run.

If you factor Hurricane Katrina in at today's level expenditure in that year the deficit will be about $645 billion. So the problem in the outyears here is not Hurricane Katrina. It is budget and fiscal decisions that were made in 2001, 2002, 2003, 2004 and are still being made today through 2010 with the insistence that all the tax cuts passed then have to be renewed. That is what is yielding you these outyear deficits. This budget that gets worse and worse by the year.

Mr. KIND. Madam Speaker, what is equally troubling and if not more so is that the gentleman is talking about the prime retirement years of the baby boom generation. We all know we have an aging population in this country and that is when that demographic time bomb is about to go off. Unless or until this Congress, working with the administration, can turn this fiscal scenario around, it will be virtually impossible for our children and grandchildren to meet the burdens that are piling up on them today because of the demographics in this country. That is why it is important that we have this discussion tonight so hopefully we can bring some fiscal sanity back into the economic decision of this body before it is too late.

Mr. SCOTT of Virginia. I would ask the gentleman from South Carolina (Mr. SPRATT) to explain this.

Mr. SPRATT. That is essentially on a linear graph, what we have here in a simple table. It shows a blip for Katrina but basically it adds very little to the outyear deficit.

Mr. SCOTT of Virginia. So the outyear deficit is essentially the same whether you pay for Katrina or not. That it is really a blip on the screen. So whatever our fiscal problems are, Katrina is absolutely irrelevant because that is only a blip on the screen.

This is the size of the deficit, the solid line without Katrina, the dotted line with Katrina. And after a couple years, you do not notice the distance.

Ms. MCKINNEY. I will not take much time but I want to change the thrust just a little bit because I want to talk for a half minute about our education President.

Now, it is my understanding, and I hope the gentleman will correct me where I am wrong and you will amplify what needs to be amplified where we are right, but our education President has underfunded No Child Left Behind by $39 billion. Now, he has also cut technical education, cut student loans, cut the grants available to students who want to go to college. And so basically they, the people who are making public policy in the Congress these days, are a bit out of touch with the way the rest of us live. We, our children, and those of us who are still students, rely on the funding that is available in the budget so that we can have the workforce for tomorrow being prepared today, and that is not the case.

But the one thing I just want to say is, it is my understanding that all of these cuts in education can be likened to a student tax, and so I would like for the gentleman to amplify on that but I would just like to say that we had a minor, modest victory in the State of Georgia just yesterday because the courts in the State of Georgia turn back a legislative initiative put forward by the Republican controlled legislature and our Republican Governor. That was the much maligned the Voter ID bill.

This Voter ID bill would have put a two-tiered structure in place for people being able to vote. That was a poll tax and the poll tax was turned back. Now we have got a student tax, a learning tax.

Could the gentleman please talk to us about the impact of these cuts on the ability of us to prepare our young people for tomorrow's jobs but also how this becomes a learning tax on young people?

Mr. SPRATT. Madam Speaker, I think the gentlewoman will agree that the essence of America's opportunity and the essence of opportunity is a good education, and what we are seeing in this budget is diminishing money every year for education. For example, the signature program of the Bush administration was No Child Left Behind and many voted for it on the assumption that there would be, yes, more accountability, higher standards but there would also be more money.

And now, 2006, the difference between what was authorized and expected to be committed to this program and what is actually being made available in this budget is about 8, $9 billion. The number the gentlewoman gave was a cumulative number since the adoption of the bill. In addition, in order to make what is provided for the additional Title I funding available, the Bush administration has proposed to cut or kill about 48 educational programs. A lot of them are small programs, but they are the Eisenhower Science and Math Program.

We just had a blue ribbon commission say we need to be investing more in science and math education if we are going to make it to the future and sustain our style of living.

So we see a faint hearted commitment in name, in slogan, No Child Left Behind, but the dollars do not follow the children to the extent that we all expected when we voted for the bill in the first place, no question about it.

Mr. KIND. Madam Speaker, I thank the gentlewoman for Georgia for raising this issue. I am a member of the Committee on Education and the Workforce along with the Committee on the Budget, and we are looking at under the majority party's budget reconciliation proposal of having to come up with close to $15 billion worth of cuts out of the education and workforce authorization budget at a time when, as the gentleman from South Carolina (Mr. SPRATT) has just indicated, we need to be ramping up our investment in the workforce development of this century with our students and with the youth so that they have the skills and the tools that they need to compete successfully in what is a rapidly shrinking world and an incredibly competitive global marketplace.

The reports are coming out almost daily in regards to how we are underfunding or not supporting programs to encourage more math and science and engineering students in this country.

Earlier this year I spent 2 weeks in China doing a higher education tour there. They are investing heavily in their education infrastructure. They are graduating more English speaking engineers from their own Chinese schools than we are here in the United States. And if this trend continues, if we continue to sleepwalk through all this, there will be serious consequences that we will be paying in short order as we move forward, and this is where fiscal mismanagement and the misplacement of priorities come back to haunt the future prosperity but also the security of our country.

We know what works. It worked in the 1990s with basic budget rules such as pay as you go, and the Democratic Party has been united in reinstituting those budget disciplinary rules. It did work in the nineties. That gave us 4 years of balanced budgets and surpluses and an opportunity to download our debt, so we were not dependent on countries like China to be financing the deficit. So we were in a better position to be dealing with a 9/11 catastrophe or a Katrina catastrophe or making the important investments for the future of our country.

Because of the economic policies pursued by the majority in recent years, those options have been taken away, and they will continue to diminish our opportunities in the future unless we bring back some sense of responsibility to this Chamber again, and that is why I think special orders like this this

evening are very important times to discuss the various choices that we face today.

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Mr. SPRATT. Madam Speaker, I thank the gentleman for his insight, and I now yield to the gentleman from Arkansas (Mr. ROSS).

Mr. ROSS. Madam Speaker, I want to thank the gentleman from South Carolina for taking this Special Order this evening; and as whip of the fiscally conservative Blue Dog Coalition, I rise this evening to share in the dialogue and to talk about the financial condition of our Nation's government. The Blue Dog Coalition aims to restore common sense and fiscal discipline to the way we operate our government.

Madam Speaker, our Nation today is $7.990 trillion, nearly $8 trillion, in debt. Put that another way, our Nation today is spending $160 billion a year simply paying interest on the national debt. That is about $500 million a day. In fact, it is $13 billion per month, it is $444 million per day, it is $18 million an hour, it is $308,000 a minute. Or put another way, our Nation is spending $5,100 every second simply paying interest on the national debt. In fact, if every person in America wrote a check to pay off the national debt, the amount each person would owe, including the children born today, would be $26,000.

It is hard to believe now that we had a balanced budget from 1998 to 2001, because now this administration, this Republican Congress, has given us the largest budget deficit ever in our Nation's history for a fifth year in a row. In 2001, the deficit was $128 billion; in 2002, it was $157 billion; in 2003, $377 billion; 2004, $412 billion; and in 2005, it went to $427 billion.

That does not include the money that is borrowed from Social Security. No wonder this Republican Congress would not give me a hearing or a vote on my bill that basically said that politicians in Washington should keep their hands off the Social Security Trust Fund. In fact, if it were not for the money being borrowed from the Social Security Trust Fund, the deficit would have been $567 billion last year.

Many American citizens, I know the citizens in Arkansas' Fourth Congressional District, are asking me where all this money is coming from that we are borrowing. We have borrowed $700 billion from Japan, $250 billion from China, and $76.2 billion from the Caribbean Banking Center. I had never heard of such. In fact, 45 percent of our deficit is being funded by foreign investors.

In the aftermath of hurricanes Katrina and Rita, we are faced with the very important question of how are we going to pay for the rebuilding efforts. I find it interesting that these questions are not asked when we talk about paying for the war in Iraq. Just a few short months ago, $82 billion was passed in emergency supplemental appropriations. In fact, we spend $188 million every day in Iraq and $33 million every day in Afghanistan.

In a time of war, in the aftermath of our Nation's most costly natural disaster in our history, the Republican majority in Congress and this administration are still proposing another $106 billion in new tax cuts. That is wrong. It is morally wrong. There is a lot of talk these days about values. I can tell you that those are not the kinds of values that I was raised on and still believe in.

This Republican-controlled Congress claims these additional budget cuts are to pay for Katrina. Over $62.3 billion has been allocated for hurricane relief efforts. However, budget reconciliation is not applicable to emergency supplemental funding. We recently passed $82 billion in emergency supplemental appropriations for Iraq. Where was the talk of reconciling the budget then? It is clear these budget cuts are not aimed at offsetting the cost of the devastating hurricanes, but rather at partially offsetting $106 billion in new tax cuts.

The Republican-controlled Congress is proposing to slash programs such as Medicaid, food stamps, student loans and other programs that would directly and adversely impact the poor, the disabled, and the elderly. And those cuts, Madam Speaker, are wrong. It is about priorities. And this Republican Congress believes it is more important to fund tax cuts for those earning over $400,000 a year than to fund programs that benefit the poor, the disabled, and the elderly.

I would like to wrap up my remarks by sharing with you a paragraph from a letter that I received just today from the National Council of Churches of Christ in the USA. It is signed by a number of organizations. Some of them you will recognize, like the National Baptist Convention USA, the National Missionary Baptist Convention of America, the Presbyterian Church, and the United Methodist Church. If I may read from that letter as my closing:

''The role of government is to protect its people and work for the common good. This is not the time for the budget reconciliation process to create greater hardships for those who are already experiencing greater suffering. To do so is not only unjust; it is a sin. It violates all the fundamental Christian principles of loving thy neighbor, caring for the poor, and showing mercy. As religious leaders, this violation is unacceptable to us.''

And to the gentleman from South Carolina, I would say that this violation is unacceptable to me as well.

Mr. SPRATT. Madam Speaker, I thank the gentleman for his comments, and I yield now to the gentleman from North Carolina (Mr. PRICE).

Mr. PRICE of North Carolina. Madam speaker, I want to thank the gentleman from South Carolina for taking out this Special Order. We are having this discussion tonight as yet another potentially catastrophic hurricane turns toward the U.S. mainland, and once again we are not prepared. This time I am not talking about FEMA or the Department of Homeland Security; I am talking about being unprepared fiscally.

Our former National Economic Adviser, Gene Sperling, put it best when he said that when the congressional leadership all of a sudden starts asking how are we going to pay for Katrina, they are asking a very narrow question. The question should be, How did this country get into such a fiscal mess in the first place? I tell you, the answer was not Katrina, and the answer was not Rita, and the answer is not going to be Wilma.

These natural disasters do cost a great deal, and we are going to do what it takes to respond to the affected areas. But they are not the cause of our problems. What these hurricanes have done is lay bare this country's troubling racial and economic divides and the sorry state of our disaster preparedness. But they have also laid bare the dangerous deterioration of our fiscal health.

Now, in the wake of Katrina, our colleagues on the other side of the aisle seem to have gotten religion on fiscal responsibility. Mind you, this is after they engineered an unprecedented fiscal reversal of some $9 trillion from budget surpluses and paying down debt in the Clinton administration to record deficits and deepening debt under George W. Bush. But our Republican friends are suddenly wringing their hands over the deficit. They are using Katrina as a pretext for doing what they wanted to do all along, and that is to cut the very safety net programs on which the victims of Katrina depend.

All you have to do is take one look at this proposed reconciliation package and you will see how much they care about the budget deficit. And I appreciate the gentleman from South Carolina pointing this out earlier this evening. This reconciliation bill would not reduce the deficit; it would increase the deficit by more than $100 billion over 5 years.

This reconciliation process, we all know, was intended to facilitate the passage of deficit reduction measures. But the Republican leadership has now turned the process on its head and is using it to push through measures that will drive us further into debt. The spending cuts called for in this bill will do absolutely nothing to offset hurricane recovery. Let us be very clear about that.

From the beginning, the $35 billion in cuts contained in the reconciliation package were intended to partially offset not the hurricane but $107 billion in tax cuts included in this budget resolution. And now, if you add $15 billion, that is not going to make up the difference. What those cuts will do is threaten vital services that the victims of Katrina are counting on to help rebuild their lives: foods stamps, Medicare and Medicaid, student loans, and

low-income energy assistance. These could all be cut, just to name a few.

What about wealthy Americans? They are going to get off without sacrificing a dime of the Bush tax cuts. Quite the contrary. The reconciliation bill is going to be used to fast-track new and extended tax cuts for those who need them least. Maybe that is the Republican idea of shared sacrifice.

The very notion that we should offset the $200 billion it could cost to help millions of Americans and their families and communities get back on their feet after a tragic disaster and not offset the nearly $2 trillion cost for the Bush tax cuts, or the $250 billion we are spending in Iraq and Afghanistan, well, that reeks of hypocrisy. And it actually worsens the fiscal meltdown of the last 4 years.

Why should we offset the cost of rebuilding Biloxi, but not the cost of rebuilding Baghdad? And even worse, why should we make the very people we are claiming to help bear the lion's share of the cost? I am afraid you are not going to find very many honest answers from the leadership of this Chamber. You are going to find some deception and deficits as far as the eye can see. I think it is disgraceful.

Anybody who votes for that reconciliation should be ashamed of themselves for what they are doing to the most vulnerable among us and what they are doing also to this entire country's future.

This is a powerful message, Madam Speaker; and I appreciate the gentleman from South Carolina's leadership in blowing the whistle on these budget follies and also showing that the kinds of things we have been saying all along are laid bare by Hurricane Katrina. And the best response we can make is to not whack at the meager budgets that these victims already depend on, but to get serious about getting our fiscal house in order long term. So I thank the gentleman for his Special Order.

Mr. SPRATT. Madam speaker, I thank the gentleman for his comments, and I now yield to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. Madam Speaker, I thank the gentleman for yielding to me, and the gentleman from North Carolina (Mr. PRICE) mentioned the question of whether the wealthy would be sacrificing in this budget. I just want to point out as we consider how to pay for the $200 billion potential cost of Katrina that there are two particular tax cuts that have not gone into effect yet, but will go into effect January 1. They are nicknamed PEP and Pease, the Personal Exemption Phaseout and the standard deduction phaseout. And as the gentleman has inferred, they only help the wealthy.

Now, we have to show a chart, because no one will believe it unless you show a chart. This shows how that cost of PEP and Pease will be distributed. If you make under $75,000 a year, you will get zero from this tax cut. If you make $75,000 to $100,000, you might get a dollar. If you make $100,000 to $200,000, you might get $25. You can hardly see the bar. Take my word for it, there is a little bar there to show the $25 you might get. At $200,000 to $500,000, you get $558, on average; and at $.5 million to $1 million, you get over $4,000. But if you make over $1 million, this tax cut that has not even started yet but will start next year, you will get about a $19,000 benefit from that.

To implement this tax cut, the 5-year cost is $200 billion. We wonder how to pay for Katrina? How about not letting this tax cut go into effect. That would cover the entire potential cost of a Katrina right there. But instead we are going to ask Medicare and Medicaid, possibly veterans health care, certainly student loans and school lunches, food stamps, and those who are most in need, those programs that the Katrina victims would actually be using, those are the programs that will be cut and not a tax cut for millionaires.

I think our priorities are wrong, and I appreciate the gentleman giving us the opportunity to bring this kind of chart to show what kind of tax cuts have not even gone into effect yet, but will go into effect beginning next year. And when we say it is a tax cut skewed to the wealthy, this chart shows exactly how that takes place.

Mr. PRICE of North Carolina. Madam Speaker, if my colleague will yield for just a moment.

Mr. SPRATT. Madam speaker, I yield to the gentleman from North Carolina.

Mr. PRICE of North Carolina. You know, our friends over at the Center for Budget and Policy Priorities have asked the rather obvious question, where did that $9 trillion go? Remember that fiscal reversal? And the answer to that is that the biggest chunk of it did go to those Bush tax cuts. A good portion of it has gone to increased defense and security spending after 9/11. Some of it comes from the bad economy and the fact that we have had a very sluggish recovery.

□ 1900

But you know what is not on the list is the sort of cuts that are being proposed by our Republican friends in this reconciliation bill, and that is domestic discretionary spending or for that matter domestic nondiscretionary spending.

The country is not going broke because we are spending too much on food stamps, and the country is not going broke because we are doing too much cancer research or having too many after school programs, and yet that is where the Republicans choose to get religion on fiscal responsibility, in the very areas where the blame does not lie. So this Hurricane Katrina exercise is just more of the same. They are saying that the offsets for Hurricane Katrina are going to come from these areas that people desperately need, while leaving the main culprits in our budget meltdown untouched. That is simply unacceptable.

Mr. SPRATT. Mr. Speaker, I yield to the gentleman from North Dakota (Mr. POMEROY).

Mr. POMEROY. Mr. Speaker, I am pleased to join the gentleman's special order and participate in the discussion with my colleagues.

We are watching something extremely unserious unfold with respect to the Nation's balance sheet. We have to understand, as we deal with the budget of this country, we are dealing not just with the matters that are presently before us and will affect the upcoming year, we are literally talking about the future of this country. To the extent we do not pay our way, our kids pick up the difference.

Many of us were terribly concerned when we saw the pre-Hurricane Katrina budget forced through the House, forced through the Senate, yet to be reconciled and passed finally, but it proposed to drive the deficit deeper and in fact that was from a position where the deficit position was the third worst in our Nation's history.

Now the difference in the deficit, and we talk deficit around here, deficit is our annual shortfall. The national debt is what it all amounts to. When we run deficits, we add to the debt. And while we are third worst in the Nation's history in terms of annual deficit, we are absolutely on unchartered ground with the kind of debt we now have, debt approaching $8 trillion.

This would be I believe very alarming by any measure, but a further look shows who owns the debt. The debt held by the public is increasingly owned by central banks of Asian nations. I have heard some Members, some friends of mine from the other side of the aisle say look, I know that is a scary deficit number, but we have had, relative to the size of our economy which is now bigger, we have been worse than this before. I do not think we ought to have the very worst in our country's history as the benchmark against which we compare, but how about the very best in our Nation's history. They try to excuse the scary state we are in by saying it has been worse in terms of real dollar terms compared to GDP.

It has never been this bad. We have never had so much debt owned by foreigners. I am not just talking about Ole and Sven and whomever else across the world, I am talking about central banks controlled by central governments, especially Asia, Japan, and even more by China.

This morning I visited with a former member of the Office of Management and Budget and asked her whether or not we were losing control potentially in the future of our monetary policy as a country, giving up essentially sovereignty of our ability to set interest rates in light of the level of debt owned by foreign governments. She indicated we are heading down that path.

So anything that we talk about in this Chamber that adds to the deficit,

increases the holdings of foreign governments of our national debt and diminishes the sovereignty we have over our own country, this is an extremely alarming situation and that is why I was so adamant against the budget reconciliation proposal being advanced in Congress.

Recently we have had a new chapter in the debate. Majority Members have said my gosh, that Hurricane Katrina was expensive, we have to offset every dollar of relief we are spending on that hurricane. Look, I welcome very much some concerns about spending and deficits and the notion that we might offset some of this stuff, but if we are going to offset, let us look at the total picture. There is nothing about a Nation's balance sheet that treats hurricane debt different from other debt. So if we are going to offset for Hurricane Katrina, let us offset for the war in Iraq, let us offset for tax cuts which deprive the government of revenue and throws us further out of balance. That is not what they are talking about.

In other words, this is window dressing on a scheme that ultimately drives us further into debt. Look at this chart. This chart shows the small bar which is the amount of spending they want to cut while the tall bar shows the depth to which the tax cuts they are including in this package would drive us further into deficit, further into the hands of more Chinese bonds residing in the Chinese government.

We need to do something about this, and it does not start with basically this window dressing on cutting many of the programs so vital to those displaced by the hurricane as an excuse to offset hurricane relief. We need to get serious about getting back to a balanced budget. There are a couple of ideas that I would advance in the concluding part of my remarks.

First, we need to reinstate a requirement given the deficits that we are in that we pay as we go from here. If we are going to take a step that adds further to the deficit, we have to find a way to offset that payment. If we spend more, we have to find a way to offset so we do not drive that deficit deeper. If we pass some tax cuts, we lose some revenue, we have to cut spending so we hold that deficit in balance.

Mr. SCOTT of Virginia. Mr. Speaker, if the gentleman would yield, have we ever had PAYGO?

Mr. POMEROY. Mr. Speaker, we have had these pay-as-we-go requirements, known as PAYGO, throughout the entire 1990s, and I will tell Members what brought it about. What brought it about was divided government. President Bush won, and the Democratic controlled Congress arrived at pay-as-you-go requirements to bring the budget into balance. President Clinton, dealing with a Republican controlled Congress, had pay-as-you-go requirements to get us to a balanced budget.

Something very, very problematic has happened under united Republican control of the White House, the House and the Senate: They blew away the PAYGO requirements and have added to the deficit like there is no tomorrow, giving us such deep debt problems with the Chinese.

Mr. SCOTT of Virginia. Mr. Speaker, if the gentleman would continue to yield, if you have a tax cut without PAYGO, you do not have to pay for it; and what happens when you cut taxes and increase spending without paying for it?

Mr. POMEROY. What happens is you get yourself into the deepest deficits you have ever had in the history of the country, which is precisely the problem. What the gentleman means is you do not have to pay for it in this year's budget because your children are going to pay for it down the road as they retire the national debt.

I would just cite a couple of other spending areas that might be cut, and it relates right back to the administration's handling of the hurricane. Just listen to this. You want to cut food stamps, Medicaid, programs that are going to be so vitally important to getting displaced people from the hurricane back on their feet again, but before we go there let us take a look at some of the ways the Republican administration has spent money for hurricane disaster relief: $1,275 per person for a cruise ship that costs only $599 for an actual cruise. What kind of deal is that? Or $15,000 paid for a load of ice that was worth $5,000; $88,000 for mobile classrooms that normally cause $42,000; $59 per hotel room per night for months on end.

And that is not all. The Federal Government paid full retail for trucks, laptop computers, clothing and sleeping bags. Firms have been awarded contracts for millions without competition. Contracts have gone to construction companies that do not even have building licenses.

If we look at how this administration has administered the relief of the hurricane to date, we are going to find all kinds of places to cut spending before starting after programs which are so vitally needed like food stamps, helping displaced families get the groceries they need to feed their children.

The thought that the other side of the aisle would cut these programs while trying to ram through a budget reconciliation package that drives up the national debt because it funds those tax cuts to the most affluent, even while you leave this shameful, wasteful spending totally untouched, this is a package of shame.

I have just learned in the course of our hour that the budget reconciliation amendment will not be brought to the floor tomorrow. Apparently the disarray on the majority side found them short of votes to bring it up tonight. If something fundamentally does not add up, I would hope, and it is high time, there is a debate within the majority conference about it. We need to get serious about controlling the spending. We need to get serious about controlling the deficits. We need to get back on a path that brings us to fiscal sanity.

Mr. SPRATT. Mr. Speaker, I thank the gentleman for his statement, and I yield to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I cannot thank the gentleman from South Carolina (Mr. SPRATT) enough for what I think is vital to the discussion on the proposed debate on the budget reconciliation. The reason I say that is because, and both of us have had experiences with hurricanes, but I have now been in a region for the last 2 months, or more, with the impact of Hurricane Katrina and now certainly Hurricane Rita. You know that Texas was not in the eye of the storm of Hurricane Katrina but experienced an infusion of almost a quarter of a million persons who were evacuated from that region. Now with the evacuation of those from Hurricane Rita, specifically in west Louisiana and of course east Texas, we have added to our family.

As I looked at the distribution of funds and the local needs, I was struck by the fact that these dollars that are going to be needed for recovery are not going to materialize. I think it is important for us to realize that the budget that is being presented or proposed by the majority will not save money. It will not address some of the very stark realities of those who are experiencing the devastation of hurricanes.

The idea that dollars dealing with health care and the fragileness of Medicare and Medicaid, which will be made even more fragile with this budget, the argument of transferring Medicaid dollars from Louisiana to Texas was a separate argument, but it was under the premise that we would have the money to take care of those on Medicaid.

The idea that we would be cutting education dollars in contrast to cutting tax cuts, the idea that we would not have enough housing, which we do not have in the State of Texas, housing to supplement the hotel rooms, all of that requires a Federal infusion of an investment of dollars. That is not wasteful spending. Those are not the kinds of cuts we should be having when we are talking about the most vulnerable, individuals who do not have flood insurance, individuals who are trying to go back into Louisiana and rebuild.

We know that the private sector will be a component, but the Federal Government, because of the major devastation, will have to help rebuild the States of Louisiana, Mississippi and elsewhere. But, this is what we have intended to do with our dollars, and I thank the gentleman from Virginia (Mr. SCOTT) on the Committee on the Budget because he has talked about this over and over again. That is that we will have two tax cuts that our good friends, in this instance my good friend, Mr. Pease, has offered that will take effect next year, and over a 5-year period will cost us $2 billion.

We have discussed this many times, and some people believe this is a frivolous discussion. Why are the Democrats talking about not wanting tax cuts?

□ 1915

We are talking about investment, and what we are suggesting is that these tax cuts are misplaced. They have nothing to do with increasing the minimum wage, which might be something we would want to consider. It has nothing to do with strengthening the middle class. And even as we looked at poverty in Hurricane Katrina, let me tell the Members there are middle-class working families that have been totally devastated. They are in our city. They had businesses. They had incomes. They had homes. Mr. Speaker, they do not have any of that now. And these tax cuts, taking away from giving them an opportunity to rebuild, SBA loans, fixing the infrastructure, which I have heard the gentleman from South Carolina (Mr. SPRATT) and the gentleman from Minnesota (Mr. OBERSTAR) speak of eloquently, this is going to be the choice being made by our good friends in the budget reconciliation.

They are willing to take tax cuts for the top 1 percent and prioritize that over health care, education, Social Security, Medicare, Medicaid, housing. But most importantly, the most vulnerable now in our Nation, not only the impoverished but almost 2 million people that are evacuated that are scattered across 44 States who may want to come home to the gulf region are going to need a little help from their friends in the Federal Government. Hard-working taxpayers now with this budget will not be able to finally support that this Federal Government can provide for them. And I hope that, as we look at this problem, we will be able to find some compassion for those who are in need.

Mr. SCOTT of Virginia. Mr. Speaker, will the gentleman yield?

Mr. SPRATT. I yield to the gentleman from Virginia.

Mr. SCOTT of Virginia. Mr. Speaker, I believe the gentleman has some charts that he wanted to discuss about some of the choices that we are making.

Mr. SPRATT. Mr. Speaker, these charts were compiled by the gentleman from Illinois (Mr. EMANUEL), and basically what he is trying to show here is that we have a robust program of rebuilding and restoration ongoing in Iraq to the extent they can maintain anything there in the midst of that insurgency.

For example, in terms of infrastructure, we have rehabilitated the Sweetwater Canal System, including repairs to the levees on the Tigris and Euphrates. On the other hand, we have cut $336 million from the Army Corps of Engineers, including funding for the levees on the Mississippi. We have rebuilt the Iraqi republican railway line. But in the United States there have been $2.5 billion in cuts in Amtrak, and the high-speed rail funding program has been eliminated. Community development, 3,120 community action projects completed in Iraq; $320 million cut from community services block grants in the United States.

$470 million for the construction of housing and public buildings and civic centers for Iraqi citizens; in this country $250 million has been cut from community development block grants; and the President's budget cuts for public housing, the capital fund, have been cut by 10 percent even though it is now already deficient to meet the needs of the program.

This chart shows the same thing. In Iraq, 110 primary health care centers built or renovated. In this country $10 billion has been cut or is being proposed to being cut from Medicaid.

I could go down the list, but the example is stark. We are not saying this should not be done in Iraq. We have got to help get that country back on its feet, and the sooner we can get out, the better. But in the meantime, we need to stabilize the country, and this is part of it, part of the economic reconstruction. But it stands in stark contrast to what we are willing to do in this country for infrastructure that we all acknowledge we need and see we need in a case like New Orleans when the levees break.

Ms. JACKSON-LEE of Texas. Mr. Speaker, will the gentleman yield?

Mr. SPRATT. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I want to say one sentence to that because what he just highlighted are two-pronged: one, we have to take care of all America, including those not so impacted by hurricanes Katrina and Rita, all of the folks who are vulnerable no matter what their station in life; hurricanes Katrina and Rita survivors but also the Americans who are hard-working taxpayers. This budget that they are putting before us does not do any of those.

Mr. SPRATT. Mr. Speaker, reclaiming my time, I made the point earlier that the cost of catastrophes like Katrina and Rita should be spread over the whole country, the whole population, but spread equitably. And it is not right to saddle that heavy burden on those least able to bear.

I thank our participants for their participation.

THE BUDGET RECONCILIATION

The SPEAKER pro tempore (Mr. REICHERT). Under the Speaker's announced policy of January 4, 2005, the gentleman from New Jersey (Mr. PALLONE) is recognized for 60 minutes.

Mr. PALLONE. Mr. Speaker, 6 weeks ago all Americans saw the human face of poverty in the aftermath of Hurricane Katrina. President Bush vowed that after the botched Federal response to the hurricane that the Federal Government would do everything it could to help those displaced in the gulf and to finally address the issue of poverty. Six weeks later, the House Republican majority is already forgetting about America's most vulnerable. This week, Republicans had planned to cut Medicaid, higher education, food stamps, and possibly the earned income tax credit in order to achieve budget reconciliation.

We heard today that the budget reconciliation has been postponed. We are not going to vote on it tomorrow, and that is certainly good news. I think it is a strong indication that this budget plan was a bad plan for America and that it was, in fact, going to be used as a method of basically hurting the poor and might have had a direct impact on those hurricane victims.

But it does not mean that the Republican leadership is not going to try to bring it up again next week when we come back. And the problem is that it just is not fair, it really is not fair. It is un-American, in my opinion, to say that we are going to try to pass this budget reconciliation by making cuts in the very programs that impact the people who suffered during the hurricane.

The Republicans are claiming that their budget reconciliation bill is fiscally responsible and will cut the deficit. But, obviously, we could tell from the last Special Order that is simply not true. The budget actually raises the deficit, gives more tax breaks to the wealthiest, and makes matters worse, obviously, for the victims of Katrina.

Essentially, this is a way of trying to build in, if you will, the Republican tax breaks that primarily go to the wealthy, to the special interests, to corporate interests that the Republicans would try to pass further down the road this year. And it is amazing to me, Mr. Speaker, that it only took Republicans 6 weeks to forget the images of Hurricane Katrina. They are once again putting the priorities of the wealthiest few ahead of the working-class Americans. It is now clear that the Republicans learned absolutely nothing from Hurricane Katrina.

I could go on myself, but I have to say that my ideas and my concerns with this budget bill were very much set forth in a Washington Post article or op ed that appeared today by Harold Meyerson called ''Gunning for the Poor.'' And I am not going to read the whole thing, Mr. Speaker, or put it in the RECORD, but I wanted to highlight some of the things that Harold Meyerson said because it basically says in probably better language what I just indicated and how I feel.

And Harold Meyerson said in this op ed today in the Washington Post: ''Congress is back in session and it's gunning for the American poor.

''A revolt of House conservatives has persuaded that body's Republican leadership to offset the increased Federal spending going to rebuild the Hurricane Katrina-devastated gulf coast by

reductions in Medicaid, food stamps, and other programs for the indigent. If things go according to plan, this week the House will begin to cut $50 billion from those efforts.

''The emerging Republican response to Katrina, apparently, is to comfort the drenched poor and afflict the dry.

''For a moment last week, it looked as though the Republicans were going to enact across-the-board spending cuts.

''That, however, would have meant less money for defense contractors and the highway industry and other contributors to congressional Republicans' campaigns. GOP committee chairmen made that point so forcefully that the idea was scrapped.

''The beauty of taking the cuts out of Medicaid and student loan programs, by happy contrast, is that it does not reduce the flow of funds to the Republican campaign committees by a single dime.

''Even before the right-wing House leadership capitulated to the even further right-wing House rank and file, the government's response to Katrina already appeared to be driven more by laissez-faire ideology than by need or common sense. The administration has opposed efforts by Senate Finance Committee Chairman CHARLES GRASSLEY to extend Medicaid coverage to those Katrina survivors who lost their jobs and health insurance in the flood. And by suspending the requirements of the Davis-Bacon Act that construction workers on federally funded reconstruction efforts be paid the prevailing wage, President Bush has ensured that much of that work will be done by illegal immigrants, as one New York Times report on the Mexican workers rebuilding Gulfport, Mississippi made abundantly clear.''

The article goes on, Mr. Speaker; but the bottom line is, and this is what Meyerson says at the end: ''The same Republican zealots who demand fiscal responsibility by cutting $50 billion for the indigent sick are now also demanding a new $70 billion in tax cuts, including the permanent repeal of the estate tax, that would chiefly benefit the rich.''

So Meyerson basically explains, and I think it is abundantly clear, the Republicans are not trying to make these cuts in programs for the indigent that would essentially help the hurricane victims because they want to balance the budget. Because, no, the deficit is still going to be huge. They are basically doing it because they want to build into the budget the opportunity to come back with permanent tax cuts for the wealthy, for the corporate interests; and this is their way of cutting programs that essentially are crucial for the hurricane victims in order to accomplish that.

And the amazing thing to me, Mr. Speaker, is that we heard President Bush just a few days or a week or so after the hurricane struck say that the hurricane showed that there were a lot of poor people, a lot of people that were unemployed, a lot of people that did not have basic necessities; and rather than trying to help them in some way by extending Medicaid benefits to them so that if they lost their health insurance, they will still have some health insurance, or rather than giving them an opportunity to have a job so that they can help rebuild New Orleans or the various towns along the gulf that were impacted by Hurricane Katrina, this administration and this Republican Congress are just cutting the legs out of any kind of help that those hurricane victims would receive and basically saying we do not care about them; all we care about is giving tax cuts to the very wealthy.

I think it is scandalous, frankly, and it is another reason why we need an independent investigation of what happened with Hurricane Katrina.

A number of my colleagues and I have been coming down here for the last few nights as well as before the congressional break that we had last week and have been saying, and so have the media been saying, that a bipartisan Katrina investigation is needed because the Washington Republicans, the ones who have set up their own committee or investigation on a partisan basis, are the same people who are responsible for the problems that we faced in the aftermath of Hurricane Katrina. In other words, the Bush administration botched what happened in the aftermath of the hurricane. And they continue to do things that are primarily for special interests, for the people who contribute to their campaign coffers, without worrying about the people, the victims, that are suffering in New Orleans and other cities along the gulf.

So why in the world would we let these Washington Republicans who control the White House, control the Senate, control the House investigate themselves? It makes no sense.

The only way that we are going to get a true analysis of what is really happening in the aftermath of Katrina, including what was discussed today in terms of the unwillingness of the Republicans to help the victims in the aftermath of the hurricane, is by having a bipartisan commission so that Democrats and Republicans are both involved in the investigation, both can look at what is happening and not have this fake Katrina inquiry that would just essentially be a whitewash, if you will, for what happened in the aftermath of the hurricane.

I notice that I am being joined now by some of my colleagues who have been here every night making this point; but we are particularly upset with the fact that, in addition to not having this bipartisan investigation, this bipartisan commission, we now face a situation where the Republicans want to bring up a budget plan that actually is going to cut the very programs that these hurricane victims need.

□ 1930

I would like to point out the other night I read a part of an editorial in the New York Times which I think says it all about this fake Katrina inquiry, and I am not going to read the whole thing, but I just wanted to read the very beginning and the very end.

This was in the New York Times on September 26. It is called, ''Faking the Katrina Inquiry,'' and it says: As the Nation reels from Rita's devastation along the Gulf Coast, any hope for a thorough investigation of government's gross mismanagement of Katrina is quietly ebbing away behind the political levees of Washington. The White House and the Republican-controlled Congress, resisting popular support for an independent, nonpartisan commission, remain determined to run self-serving, bogus investigations. There is no way to whitewash a hurricane. The government dominated by one party should be disqualified from investigating itself. Just as President Bush repeatedly fought the creation of the 9/11 Commission till public pressure forced him to yield, so should the public now demand that the administration and Congress get real about Katrina.''

I feel even more strongly about this in the light of this budget reconciliation bill that we understand now has been postponed because the Republicans do not have the votes. Thank God they do not have the votes, and hopefully, they will never have the vote for this scandal.

I would yield now to my colleague the gentleman from Florida (Mr. MEEK) who has been here practically every night making this point.

Mr. MEEK of Florida. Mr. Speaker, I can tell the gentleman from New Jersey (Mr. PALLONE) I am just so glad to be here with you tonight, and I know that the gentleman from South Carolina (Mr. SPRATT) was here a little earlier, our good friend from South Carolina and the ranking member on the Committee on the Budget, to point out some of the variations you have been talking about now.

I can tell you also that I was concerned. I think it takes more than a press conference that the majority did today down in the basement of the Capitol here saying we are fiscal conservatives. All of the sudden, after all of this time, after all of this borrow and spend money, no one said a mumbling word. Now we have Americans that are displaced, Americans that are looking for assistance from its government, Americans that are still in shelters, and now we want to be fiscal conservatives. We want to all of the sudden say, oh, well, you know, the American people know the Republican majority here in the House, that we are fiscal conservatives.

Let me just say something. The budget does not reflect the highest deficit in the history of the republic or one of the highest. Definitely when it comes down to the war in Iraq, there is

no real accountability as it relates to corporate greed and corruption and cronyism of companies that have stolen the taxpayers' money under the lights, and they are still getting contracts from some of those very same companies that got contracts in Hurricane Katrina to make the taxpayer victims all over again.

Now folks over there want to get religion about being fiscal conservatives, saying we are going to find some, what, $55 million or whatever the figure is, off the backs of poor people. So I think it is important that we talk about this.

I think that I just want to do this again. Maybe the folks over here on the other side forgot about this. Maybe they forgot about this community. This is the before picture of the Category 3 levee, and this is the after picture. Maybe they forgot about those Americans that lost their homes. All under this we are going to be fiscal conservative. Maybe they forgot about this lady here with her children, finally getting out from the water after 4 days right here in New Orleans. She is carrying her kids out when 30,000 people were trapped there. Maybe we forgot about that. Maybe we forgot about these folks here that had to improvise and find their way back to safety, and these kids stroking here on the refrigerator with a board, maybe they forgot about that. Maybe they forgot about this, too.

Let me just say that I want to make sure we do not get confused on the reason why we are having this debate in the first place. This is all about helping Americans and making sure that local government and the Federal Government is able to respond in a way that it is supposed to respond, appropriately, to taxpayers when this happens.

Now we are going to make the country pay even more of the 67 percent cut that took place under regular order under the last budget that the majority held the clock on once again, open a little bit longer, the Republicans on the majority side did, and now we are going to go back on top of the 69 percent, and the goal is to do an additional 50 percent cut, okay, 50 percent more going into cutting these programs like Medicaid and Medicare and free and reduced lunch for children.

What was so disturbing and I think the Members should be aware of, I watched this on C–SPAN. It was down in the basement. There were about six Members, the temporary majority leader and all of that stuff. They were down there talking, beating chests and all.

In closing my opening statement, I am so happy that there is a God, and I am also happy that there are some folks in this Congress that are willing to put the pressure on the majority side on this issue.

As you know, today we were supposed to do some voting on this, on the budget, and tomorrow we were supposed to do some voting. That vote has been pulled now, and it is not going to happen. I do not think that it is not going to happen because the staff could not necessarily get the paperwork together. It is not going to happen because it was the wrong thing to do on the backs of the wrong people.

You do not go to a family saying we are here to help you, but first of all we are going to take back at least $1,000 of the services that you had coming to you due to the fact that Federal-mandated law, as it relates to health care, we are going to take it back from you. Matter of fact, take that cookie out of the kid's mouth. Did he get that in the free and reduced lunch program? Take it back from him because we are going to cut that, too.

What they did that I think is important and I think the Members in their offices that are watching now needs to know, what they did, they said, well, we are definitely not going to deal with the billionaires. We are having this press conference to send a code to let them know that you are safe.

I want to make it clear we have a Republican majority here in the House, and it has been that way for 10 years. We have a Republican majority over in the Senate and definitely a Republican White House. So anyone that would come and say anything publicly on this floor about, oh, the Democrats are stopping us from governing in a compassionate way, that is not true.

Mr. RYAN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. PALLONE. I yield to the gentleman from Ohio.

Mr. RYAN of Ohio. I appreciate that. That is the distinction that we need to make here. The Republican Party controls all the levels of government, the committees, the House, the Senate, the White House. What they say goes. We are an opposition party at this point, and they are the governing party. They are taking the country off the cliff is basically what is happening here.

The point I want to make to my friends in the 30-Something Group and to the Members who are watching and the American people is this. When this body was originally trying to figure out a way to pay for Katrina, all those pictures that you show, when they were originally trying to figure out a way to pay for this, you know what came up? Across-the-board cuts in all programs, 2 percent, in order to pay for this, across the board. Then, when the extreme right wing Republicans in the caucus came over and those corporate interests here in Washington, D.C., came over to the Hill and they started exerting their influence here, it changed because we cannot cut programs that the big-time lobbyists want. That would be wrong in Washington, D.C.

Notice what is being cut, notice. Look at the list: Medicaid, Head Start, college loans. There is not a program that is getting cut where the people can actually donate money to Congress. We cannot cut programs where people have to donate and they make big profits. Is that not a coincidence? Of all the programs we have, not one program is going to be cut in which a special interest would be hurt. What a shame. What a sham. It is a joke that we are going to ask Medicaid recipients, Head Start, free and reduced lunch, college loans. Those people are going to take the brunt of the hit to pay for a natural disaster.

I heard a columnist today say we are going to take from the dry poor and give to the wet poor, and is that not something?

Mr. BOREN. Mr. Speaker, will the gentleman yield?

Mr. PALLONE. I yield to the gentleman from Oklahoma.

Mr. BOREN. Mr. Speaker, the last few nights I have been watching this 30-Something crowd up speaking at night, and it really inspired me to come down to the floor.

This is my first Special Order as a freshman Member of Congress. I hail from the great State of Oklahoma, and this is very, very important. I think the American people need to know about what is going on here in Washington, D.C. It is hurting my district. It is hurting all of us.

I want to talk about some of these programs that you are talking about that affect everyone from Broken Arrow and Idabel, if you are listening tonight; to Muskogee, Oklahoma; to Miami, Oklahoma; to Durant. Let us talk about the community health centers that the funding has been slashed.

The President's budget asked for a 64 percent reduction. We talk about Medicaid and the COPS program. We have talked about economic development in the rural part of America that is being cut. Even Start, which you talked about earlier tonight, is very, very important. Head Start funding, TRIO and Gear Up are so important.

Let me tell you, in my district we have a lot of young people and their families. No one's been to college, and these programs are vital for creating jobs in a district like mine. Because of some kind of offset for, as you said, a billionaire or someone else like that, people in my district are getting cut, people in Oklahoma.

I am one of the more conservative Members of our caucus. I come from a red State. I am the only Democrat in our delegation. The President carried my district with 59 percent of the vote, but I want to tell you, this resonates with all Americans, both Democrats and Republicans.

We are running up a huge national debt. We are paying interest payments, and it gets larger and larger every day. As we pay those interest payments, it squeezes out all those programs that are so vital to us, not to a Democrat or a Republican, but all Americans, especially in rural parts of the United States.

I want to tell my colleague from Ohio, my colleague from Florida and New Jersey, and now another Member

from Florida has joined us, I thank you for allowing me to be a part of this team tonight and to speak on these issues.

Mr. RYAN of Ohio. Mr. Speaker, let me just say that it is great to have you here, and I think it shows that it does not matter whether I am a red State, Florida's a red State, Oklahoma unfortunately is a red State. You are the only blue Stater here, but I think what the gentleman from Oklahoma (Mr. BOREN) brings here is that there is this idea that we are trying to promote the Democratic agenda. This is about America. This is not a partisan issue.

I mean, help us out here. The kid who is getting Head Start or the kid that wants to go to college or the parents that are trying to pay for the school or whatever it may be, this is not a red State-blue State issue. I think the 30 Something Group is all about talking about what is best for the United States of America, and that means making sure that those people in your district have an opportunity to go to college, that they have a healthy start.

I think we have talked about that, and that is not a partisan issue. This is about what is doing what is best for the country.

Ms. WASSERMAN SCHULTZ. Mr. Speaker, will the gentleman yield?

Mr. PALLONE. I yield to the gentlewoman from Florida.

□ 1945

Ms. WASSERMAN SCHULTZ. Mr. Speaker, I thank the gentleman from Ohio. I feel a little odd over here. But, Mr. Speaker, if more of the people on this side of the chamber thought like me, then we would be improving things really significantly here. So I think maybe if I stand here long enough, maybe the philosophical brain waves will travel over here.

It is wonderful to have our colleague from Ohio join us in the 30-Something group. We have been trying to encourage our fellow 30-Something Members to join us down here to talk about the things that resonate universally across this country. The gentleman is absolutely right, both gentlemen are. It does not matter whether you are in New Jersey, Ohio, Oklahoma, Florida, Idaho, California, the things that we talk about on this floor during our hour are resonating and run deep in terms of their impact on Americans, whether you are from the right wing of the spectrum or the left wing of the spectrum.

Let us take the cost of college. Obviously, people in our generation, whether they are raising children that are about to go to college, or whether they, in the case of people who are maybe closer to the ages of the gentleman from Oklahoma (Mr. BOREN) and the gentleman from Ohio (Mr. RYAN), who are closer to having been in college than perhaps the gentleman from Florida (Mr. MEEK) and I are, the rising costs of college are just really getting out of control. The gentleman from Florida (Mr. MEEK) and I just turned 39 a couple of weeks ago, so we are in our last year of eligibility here. So listen, I am a woman, and I am acknowledging that.

But there was an article in my paper today in the South Florida Sun Sentinel that talked about the cost of college having risen by one-third over the last 5 years. One-third. Parents have been preparing every year for yet another hit in their pocketbook. The average college costs today at a private college are $21,000, and almost $5,500 at a public university. It does not matter whether you are in a red State or a blue State, and I am going to claim Florida as a purple State. We are 50–50 right down the line when it comes to those elections, so I am not willing to cede that we are a red State just yet.

We cannot have our college students face the double-digit tuition increases that have been rained down upon them, coupled with the deep financial aid cuts that have been proposed. That is what is coming out of this Congress right now.

One of the things that we mentioned last night was that while we are very critical of the actions that are being proposed here by this Republican leadership, we do have our own set of plans, particularly in terms of how we would approach higher education and making college less expensive.

We would make college more affordable in several ways. Our proposal would guarantee a $500 boost to the maximum Pell grant scholarship. We would give students the choice between either a fixed or a variable interest rate when they consolidate their student loans, and we would do so without raising costs for students. We would keep Congress's promise that was made in 2002 on the Republican watch, which still has not been fulfilled, to lower the interest rate cap on student loans at 6.8 percent. The Republican bill reverses that bipartisan agreement and raises student interest rate caps to 8.25 percent.

We absolutely have to do not just right by our students, but we have to at least do what we say we are going to do. You cannot just talk about lowering the cost and expanding access to higher education; you actually have to follow up with action on it. And this Republican Congress and their leadership has been dropping themselves into a full-scale reversal and literally closing off access do higher education to Americans across this country.

Mr. BOREN. Mr. Speaker, that building block that we talk about, education, being ready for the work force is very, very important. Let us talk about going into the work force. This Republican Congress has talked about creating jobs, has talked about growing the economy and, at the same time, they are cutting programs that are very vital to creating jobs. Let me talk about them right now.

The small business 7(a) loan program is very important to my constituents. These loans are the most basic and most used types of loans of SBA's business loan programs. Under this budget, for the second year in a row, the budget eliminates appropriations for small business 7(a) loans and proposes to run the program solely through fee increases, substantially raising the costs for small business and lenders.

We talk about these rural communities again. They get out of college like at Southeastern in Durant or they are at NSU in Kulaqua, they have that degree, they are going for that seed capital. They want to start a new business. We have always been the party of small business. We have always been the party of Main Street, going out and striking out on your own. This budget slashes those programs.

Another thing, SBA business information centers, joint ventures between the U.S. Small Business Administration and private partners, they provide the latest in high-tech hardware, software, and telecommunications to help start-up and expanding businesses. They also offer a wide array of counseling services. Under this budget, that program is eliminated.

One more. Micro loan program. This program provides very small loans to start-ups and targets mainly low-income entrepreneurs. In 2003, this vital program provided $26.5 million in loans and an additional $15 million in technical assistance. The micro loan program enables individuals to become self-sufficient while creating jobs and contributing to economic development in local communities.

Under this budget, every single dollar is eliminated. Think about that. We are talking about growing the economy, we are talking about creating jobs. Right now, we are creating inflation, because we have such high energy costs.

Mr. RYAN of Ohio. That one program was for low-income folks?

Mr. BOREN. Absolutely.

Mr. RYAN of Ohio. This is almost hysterical, in a bad sense hysterical. We were in the Committee on Education and the Workforce today marking up the TANF bill. We offered an amendment to raise the minimum wage to a living wage. Shot down. We offered an amendment that we wanted to give more money for people who were going from welfare to work, we were going to step in and provide them with child care, more money for child care. We have a study that says you need about $8 billion for these people to have adequate child care so they will actually get off the welfare rolls and get to work. That got shot down.

Mr. MEEK of Florida. Mr. Speaker, if the gentleman will yield, we need to clarify who we are and they are.

Mr. RYAN of Ohio. I appreciate that. I thank the gentleman. I thank the gentleman. The Republicans on the committee who have a majority of the folks on the committee shot all of those democratic amendments down. The Democrats offered to have a living

wage. The Democrats offered to increase money for child care so that you can go out into the work force and contribute to the economy and pay taxes. Now, our friend from Oklahoma says, well, even the program where low-income people want to strike out on their own and they want to start their own business, that program is getting cut.

What do you propose these people do? Is there an answer on that side? They are talking about this long and distinguished record of helping people. How? What do you mean? The poverty rate is going up, wages are stagnant, and it is harder to get into school, and tuition has doubled.

Mr. PALLONE. Mr. Speaker, if the gentleman will yield, the gentleman from Ohio is absolutely correct. I want to go back to what he said before, because we are talking about all of these terrible things that the Republicans are doing and are proposing to do, and I am sure a lot of the people say, well, why would they do those awful things. I think it is important for us to go back to what the gentleman from Ohio said before, which is why is this happening?

I mean, obviously, it is not happening because they want to reduce the deficit, because my understanding is that this budget that they were going to bring up tomorrow, this budget resolution actually increases the deficit by more than $100 billion, so it is not for deficit reduction. Any spending cuts, in my opinion, are being used primarily for 2 things. One is because they want to offset the tax cuts; again, these are tax cuts primarily for the wealthy, for the special interests that are coming down the road.

The other thing that I think we need to point out, and that is why I asked the previous Democrats from the previous Special Order to leave this chart up. Also what is happening here is that the Republicans want to continue to pay for these infrastructure and other improvements in Iraq. Now, I am not saying that it is bad to do all of this reconstruction work in Iraq. I mean, I strongly believe that it needs to be looked at, because a lot of times it is going to Halliburton and other companies that are skimming the money and not necessarily delivering the services. But I think it is very interesting to see that almost every one of the programs that were mentioned here tonight by each of my colleagues, well, to the extent it is being cut in the United States, it is being done in Iraq. I just do not think that is fair.

I want to just read this again briefly, because it is just amazing to me. Again, this comes from the gentleman from Illinois (Mr. EMANUEL), our democratic colleagues: health care, because the gentleman from Oklahoma mentioned the community health programs. Health care in America, $10 billion in medicaid cuts through reconciliation, $252 million in cuts for health care professionals, $94 million in cuts to community health care centers that the gentleman from Oklahoma mentioned. In Iraq, 110 primary health care centers built and renovated, 2,000 health care professionals trained, 3.2 million children vaccinated. We are spending the money in Iraq rather than here.

Education, the gentleman from Florida talked about education. The Republican budget cuts in the United States, $9 billion in cuts to student loans through reconciliation, $806 million in cuts to No Child Left Behind. In Iraq, 2,717 schools rehabilitated, 36,000 teachers and administrators trained. I am not going to go through the whole thing because it was gone through before and I do not want to repeat it.

But I will just never forget, within a couple of months after the invasion of Iraq, a couple of my Republican colleagues came down here one night on the Floor and they had just come back from Iraq and it was the first day of school and they had all of the books and the pencils and the papers that were being provided to the students in Iraq. I had just come back from New Jersey and was hearing complaints from the schools about how they did not have pencils and paper and supplies. There is nothing wrong with helping the people in Iraq, I am not trying to take away from them. But for them to say to us that we have to cut similar type programs for people who are really in need, including the hurricane victims, it is just not right. An the reason they are doing it is because they do not want to cut the programs for their special interest friends and, at the same time, I believe they are trying to build in money that they can use for these additional tax cuts that primarily benefit the wealthy.

I just want to also say, again, I am showing my age here because I know this is the 30-Something club, but I am going to digress for one minute. I am so pleased that the gentleman from Oklahoma joined us tonight. I followed his election last year and I was so happy that he won, because we certainly need Democrats in Oklahoma. I know you are in a long tradition of people that the rest of my colleagues probably do not even remember, and that is your father, who was the Senator; Brad Carson, your predecessor; Mike Synar. Oklahoma always had conservative populace, I guess I call them, who were conservative but, at the same time, understood the needs of the people. So I am very pleased that you are with us here tonight.

Mr. BOREN. Mr. Speaker, if the gentleman will yield, I want to add one more person to that list, and that was my grandfather, who served in this body from 1937 until 1947 and actually represented the southern portion of my district. So we share a bond that we both serve in the House. Dad was in the other chamber.

But I talked a little bit about programs that are traditionally Republican programs, like what you would think of as economic development, creating jobs, these are really programs that I believe that Democrats support more than Republicans. Another one that Republicans try to talk about that they have the upper hand on is law enforcement programs. Let me just give a few statistics about law enforcement.

The COPS program, a very, very successful program. It stands for the Community-Oriented Policing Services program. It provides grants to help communities hire, train, and retain police officers and improve law enforcement technologies. Under this budget, it is slashed by $477 million or 96 percent.

Another program which is very vital to my district is the firefighter grants program. It affects all of our communities I know that are here in this chamber tonight. This program provides local firefighters with everything from trucks and equipment to the ability to pay salaries for trained professional firefighters, despite the fact that police departments nationwide do not have the protective gear to safely secure a site after the detonation of a weapon of mass destruction, and fire departments have only enough radios for half of the firefighters on a shift.

□ 2000

Under the Republican budget it has slashed the fire fighter grant program by $215 million or 30 percent.

We talk a lot about Homeland Security. I am on the Armed Services Committee in this body. We talk a lot about Homeland Security, we talk about being prepared for the next threat. Obviously with Katrina, that is a new threat that most of us probably did not even think about just a few months ago. How are we going to be prepared for the next disaster if we are cutting programs like these?

A budget here in Washington, when we craft a budget it is a statement of our priorities, and unfortunately the priorities of some Members in this Chamber have been for those who have, and have left those in areas like my district in eastern Oklahoma who do not have the funding to make sure that they can talk on these radios.

I can tell you a perfect example. Greg Walters, if you are listening tonight, he is a first responder in Sequoyah County, somebody I talk to every day, talks to me about his fire trucks. The Nicut Fire Department, they are having trouble getting funding for their trucks, they are having problems getting funding for their radios. If there is a fire or something that happens, and terrorist attacks can happen anywhere, they happened in my home State of Oklahoma. It is not just in the urban areas. We have got to be prepared. Again, we have got to refocus our priorities.

Ms. WASSERMAN SCHULTZ. The gentleman just mentioned that if we are going to make sure that we are ready for the next natural disaster, often when you talk about events like epic proportions like natural disasters,

you think of them in terms of their rarity. Since myself and Mr. MEEK are both from Florida, and in the next 2 days we will face what is no longer considered a rarity in our State in the name of Hurricane Wilma that has now reached the point in history that it is the strongest storm on record with the lowest barometric pressure ever to be recorded in the Atlantic Basin and is expected to make landfall in our home State, possibly crossing over either mine or Mr. MEEK's district over the weekend.

One of the things that we have been emphasizing over the last several days and weeks is that the confidence of the American people in their government has been badly shaken. The gentleman from Oklahoma mentioned that we are not sure how people are expected to be able to have that confidence restored and know that the next natural disaster, or man-made disaster for that matter, that their government is going to be prepared both in terms of getting them ready to deal with that disaster or in the aftermath of that disaster.

If you look at the results of Katrina and the aftermath of Katrina, certainly their confidence was not restored. If you look at the revelations that have come from the independent 9/11 Commission's Report, and now yet another report is about to come out from the independent 9/11 Commission that through their private educational foundation they are about to release a report that blasts the FBI for not implementing much of their recommendations.

When is this administration, this Republican administration and the leadership here going to listen to the priorities of the American people and make sure that, in terms of disaster preparedness, whether it is man-made or natural, that we not add insult to injury in the aftermath of those disasters by cutting services and badly needed health care and badly needed higher education and assistance for the very people that were victims? And when are they going to make sure that they have adequate preparation to deal with those, the aftermath of those disasters? Right now we have not seen anything other than the development of a partisan committee in this institution to supposedly investigate what happened. Well, if you cannot even know that the FBI and that the administration is going to respond to the report that was issued from the independent 9/11 Commission, then certainly we would have little to no confidence that anything is going to come from a partisan investigation like the one that is going on here.

Mr. MEEK of Florida. Mr. Speaker, I just want to tell my colleague from Oklahoma that he is supposed to do exactly what he is doing. We are doing exactly what we are supposed to be doing, and that is represent our constituents. That is why we are up here. We are not up here to be friends, buddies, and pals. We are here to make sure that folks who woke up early one morning, whether they be Democrat, Republican, Independent, no party affiliation whatsoever, an individual that was in a nursing home could not make it, did not have an absentee ballot, they deserve our representation. And the reason why this bill did not come up and hopefully will not come up in the form that it is in now, and some folks ask what do Democrats do in the minority? What do you do because you do not have the ability, not we do not have the physical ability or the mental ability to do it, but by rule we cannot bring certain things to the floor. We cannot agenda bills here on the floor. There are a lot of things that we cannot do because we are in the minority. But what we can do is propose.

Now, this very bad budget amendment that is coming up that is going to cut the opportunity for families who want to work to be able to have child care and to be able to, like the gentleman from Ohio, provide for their families. And so I think it is important that we realize that this is not a partisan conversation. The only thing partisan about it is the fact that the majority, which is the Republican leadership here, will not do what they are supposed to do.

The last point. This whole issue on this we are going to cut, this exercise as it relates to looking at the budget has gone off the focus of helping the victims of Hurricane Katrina and Rita to we have got to prove to America that we can govern. That is what it has turned into. It has turned into that by saying, well, we can govern because we know how to cut. We know how to cut. Well, who are we cutting? We are cutting those that cannot fight back. You might as well just answer the question the way it really is. Let us talk, let us, like they say in some places, let us put the cookie on the bottom shelf so that we can all reach it and understand what is going on.

So I think it is important, need it be if someone has a bus pass in their hand, they carpool to work, they have to go out and do certain things in their car before they turn it over because they cannot afford to buy a new car. I have been there before, I put my hand up. Those that are running around here know that they can only put $20 in their tanks and some of them have to shut their car off at certain times because they know they just cannot spend that money because they do not have it. These are individuals that we are standing for. These are the individuals that we are leading on their behalf.

So it is important that we put these things out there. It is important that we come to this floor, and not let Democrats in the House or America know what is going on, to let Americans know what is going on. But this stuff does not just happen. It happens because we want them engaged, we want Members engaged in representing their constituents.

Mr. BOREN. Mr. Speaker, I will just give my colleagues an example in my district. We have a terrible problem with methamphetamine. It is happening everywhere, it is not just happening in rural areas, it is happening in urban areas. We have places in Le Flore County in Oklahoma where literally this is infiltrating not based on socioeconomics, the rich and the poor, it is affecting everyone. And one of the only tools that we have to fight this scourge of methamphetamine is the Byrne Grant Program. Under this budget, it was slashed. Once again, when we have the tools, we have the necessary tools, it is taken away.

And I can think of the district attorneys and the drug task forces in my district that I have met with, the first responders who say, damn, we desperately need it. We need it in places like Heavener. And we are saying to them, no, we cannot do it because we are going to spend it somewhere else. I just wanted to give that example.

Mr. PALLONE. I am so glad that the gentleman used that example and the other examples that he has been using. Tomorrow in the Energy and Commerce Committee we are going to have a hearing on the health and social costs associated with drug use, particularly methamphetamine use. And I just have the statistics because I am getting ready for the hearing. In 2000, researchers estimate the annual health and social costs associated with drug use, particularly methamphetamine use, was approximately $116 billion, $15 billion of which was attributed to health care costs.

A lot of the things that we talk about here, particularly health care, are actually preventative. And so the Republicans think that somehow they are saving money. They are not saving anything because they are going to drive people, as the gentleman says, he is talking about methamphetamine, they are going to create a situation where the problem is going to even get worse and it is going to cost us more in the long run because the people that are impacted are going to get sick.

I was thinking of the gentleman's dad again, and I do not want to keep bringing it up. But one of the things that the Republicans are talking about doing, this $10 billion in Medicaid cuts through reconciliation, the gentleman from Oklahoma pointed out that we are not just talking about poor people and indigent people here, we are talking about working people. Maybe you call them the working poor or middle class, I do not know what the word is, lower middle class. The Medicaid cuts that the Republicans are talking about mostly impact senior citizens who go to nursing homes, because what they are proposing to do is to make it more difficult for the spouse who is left behind to keep their home or to keep their car. They want to make the guidelines so that they take the money from those very people in order for them to be able to continue to stay in a nursing home.

And I remember, I was thinking again about the gentleman's dad, because one of the things that he did was the so-called Boren Amendment. I do not even know if my colleague remembers that, but that was the one that said that the nursing homes had the ability to seek redress if the Federal Government was not providing enough funding for nursing home care, because what happened is that the quality of that care decreased and people became sicker, and so he wanted to have some enforcement mechanism to make sure that the quality of care in the nursing homes was still good. When the Republicans came in, they wanted to repeal that, of course, and they did repeal it ultimately.

So these cuts, they directly impact people, not just indigent people. I am not saying we should not be worried about the poor, we obviously do. But a lot of the people who may not necessarily be aware of the fact that they are going to be directly impacted, middle class people, senior citizens, they are going to be impacted by these health care cuts. Even the student loan programs. These are not just student loan programs for poor people, these are middle class kids that are struggling. These cuts impact the majority of Americans. I mean, that is a fact. And I appreciate the fact that all of you are bringing that out, because I think it is very important.

I yield to the gentleman from Ohio.

Mr. RYAN of Ohio. I thank the gentleman for yielding. I think that is a tremendous point. The Democrats are offering up amendment after amendment on the floor, in committees. We have an agenda that we are trying to move forward here, and our agenda is pro taxpayer, and it is pro taxpayer because we make investments, just like you do in your home with your family. The best investment you can make with your kids long term: Education. It is going to save you money in the long run. That is what the Democrats want to do. We want to invest into health care and pay up front so that we do not have to pay more in the long run.

The Democrats are for preventative care with the community health centers, with clinics, so that people go to a clinic and get the antibiotics that they need or the basic care that they need, the preventive care that they need so they do not wander into an emergency room 2 weeks later with pneumonia and the taxpayer still has to pay for it. That is smart use of the taxpayer money. Investing in the student loans, I have said this a million times on this floor. We had a study in Ohio, University of Akron. For every dollar the State of Ohio invested into higher education, the State got $2 back in tax money. That is the investment the Democrats want to make. We are playing offense. We have an agenda here. We are not here just to criticize, although we could spend a lot of time making the proper criticisms.

Providing health care for young kids. If you do not get these kids health care at a young age on the Medicaid program, SCHIP, the programs that we want to fund, these kids are going to develop long-term diseases, illnesses that will cost us a lot more money. And not only that, if you have kids in the classroom and only half the kids have health care, they are going to get the kids that do have health care sick.

Ms. WASSERMAN SCHULTZ. Do you know what else we are for? We are for honesty. We are for honesty in government. We are for ridding this institution of the culture of corruption that has consumed it in recent weeks and months.

Mr. MEEK of Florida. Do not forget cronyism, please.

Ms. WASSERMAN SCHULTZ. I was getting to cronyism, because there are a lot of Cs that are flying around this Chamber, including the first letter of the word Chamber. The gentleman from Oklahoma and I are freshmen, we just got here, we have been here 10 months. We have conversations on the floor all the time about how astonishing it is that this institution has a pall cast over it, that there is a shadow cast over this place by the culture of corruption, the cronyism, the ethical challenges that some of our Members face, the cronyism in the administration, the appointments of people who are not qualified for the job that they were hired to do.

□ 2015

It is time to return this government back to the honest people, back to the people who are in it for right reasons, back to the people who went into public service to make the world a better place, not to line their supporters' pockets, with all due respect. That is literally what I have watched this place become both as an outsider and now as someone who has become a Member of this body.

Mr. RYAN of Ohio. Let us reiterate that point right before we go. We have about 5 minutes left.

Every cut that is being made to fund the Katrina relief is being made to a group of people who do not donate to the Republican majority. They are Medicaid recipients. They are food stamp recipients, and they are college students and middle-class parents who do not have a big lobby group here.

Mr. MEEK of Florida. I just want a point of clarification. The folks that are going to suffer under these cuts, they do not make political contributions. Their only contribution is their vote to send a Member of Congress up here. I do not know when I go to these health care centers and they say, well, we had to cut 10 employees, we cannot even meet the people from the community that are coming in and need our help because the budget has been cut.

It is the evolution of taxation. We make the cuts up here and then the States, they return the favor to the local folks, and they cannot do what they are supposed to do. The folks that are being cut and dealt with and manhandled by the majority on this, they do not make contributions to anyone. They cannot afford to. These are the people that are punching in and punching out every day.

I think it is important that everyone understand the proposal that the majority is talking about now will do nothing but weaken the country. That is the bottom line. That is what it does. I want to make that point of clarification because even when I check my campaign reports, there are not a lot of Medicaid recipients there saying, we are writing a fat check to the Congressman. They cannot write $10 to the Congressman because they are too busy trying to pay for gas and the heating oil.

Mr. BOREN. Mr. Speaker, actually, something that we are not talking about also, we are seeing all of these cuts, but at the same time there is a State tax increase there because you have cuts at the Federal level and guess who has got to bear the brunt?

I served in the State legislature in Oklahoma before I came to Congress. And we had all these things called unfunded mandates that the other side talked a lot about, these unfunded mandates. Guess who is sending these unfunded mandates right now? It is the other side. They are sending them back to State legislatures like my home State of Oklahoma. And they are not only going to the States. They are going to the counties, they are going to the municipalities, and it is going to be a tax increase for the American people.

Mr. PALLONE. The gentleman mentioned before Medicaid. Medicaid is a matching program, 50 percent Federal, 50 percent State. So if the States do not get the 50 percent from the Federal Government, they have to make it up themselves or drop the people completely.

I know we are almost done so I would like to yield to the gentleman from Ohio (Mr. RYAN) because he is going to give us the 30-Something information.

Mr. RYAN of Ohio. Before I give the e-mail address, the cuts at the Federal level, it goes down to the States. The State has to make a decision to raise taxes; and then it goes from the State, the State is pushing it down to the counties, as was said; and many of us represent districts, the local communities which are some of the poorest in the country. So those people are choosing between raising their own taxes that they do not have, the person who does not have $10 because of the energy costs and everything else, versus funding for their local school because No Child Left Behind is not paid for or hiring more cops because the COPS grant has been cut. And that is the end line.

Ms. WASSERMAN SCHULTZ. Mr. Speaker, I would suggest the Web site.

Mr. RYAN of Ohio. Our Web site is 30somethingdemocrats@mail.house.gov. We have been getting a ton of e-mails. Keep sending them. We love to get them.

I appreciate the strong cast we have here and maybe tomorrow or next week

we will be able to fill the whole Chamber up. Let us keep rolling.

Mr. PALLONE. Mr. Speaker, I thank everybody for joining us tonight for a very important Special Order.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate agreed to the amendments of the House to the amendment of the Senate to the text of the bill (H.R. 3971) ''An Act to provide assistance to individuals and States affected by Hurricane Katrina.''

ABLE DANGER FAILURE

The SPEAKER pro tempore (Mr. REICHERT). Under the Speaker's announced policy of January 4, 2005, the gentleman from Pennsylvania (Mr. WELDON) is recognized for 60 minutes.

Mr. WELDON of Pennsylvania. Mr. Speaker, I rise tonight to talk to our colleagues and through our colleagues to the American people about an issue that troubles me greatly.

I have been in this institution 19 years, and during those 19 years I have been on the Committee on Armed Services. Currently, I am the vice chairman of that committee and chairman of the subcommittee that oversees the purchase of our weapons systems. In the past I have chaired the research subcommittee. I have chaired the readiness subcommittee, and I have spent every available hour of my time working to make sure that our military troops were properly protected and have the proper equipment and training.

I am a strong supporter of our military. Whether it was in the last 2 years of the Reagan administration, the four years of the Bush administration, the 8 years of the Clinton administration, or the current administration of President George W. Bush, I have been a strong supporter of our military. I am a strong supporter of President Bush. I campaigned for him. I am a strong supporter of Secretary Rumsfeld. I say all of that, Mr. Speaker, because tonight I rise to express my absolute outrage and disgust with what is happening in our defense intelligence agencies.

Mr. Speaker, back in 1999 when I was Chair of the defense research subcommittee, the Army was doing cutting-edge work on a new type of technology to allow us to understand and predict emerging transnational terrorist threats. That technology was being done at several locations, but was being led by our Special Forces Command. The work that they were doing was unprecedented. And because of what I saw there, I supported the development of a national capability of a collaborative center that the CIA would just not accept.

In fact, in November 4 of 1999, 2 years before 9/11, in a meeting in my office with the Deputy Secretary of Defense, Deputy Director of the CIA, Deputy Director of the FBI, we presented a nine-page proposal to create a national collaborative center. When we finished the brief, the CIA said we did not need that capability, and so before 9/11 we did not have it.

When President Bush came in after a year of research, he announced the formation of the Terrorism Threat Integration Center, exactly what I had proposed in 1999. Today it is known as the NCTC, the National Counterterrorism Center. But, Mr. Speaker, what troubles me is not the fact that we did not take those steps.

What troubles me is that I now have learned in the last 4 months that one of the tasks that was being done in 1999 and 2000 was a top-secret program organized at the request of the Chairman of the Joint Chiefs of Staff, carried out by the general in charge of our Special Forces Command, a very elite unit focusing on information regarding al Qaeda. It was a military language effort to allow us to identify the key cells of al Qaeda around the world and to give the military the capability to plan actions against those cells so they could not attack us as they did in 1993 at the Trade Center, at the Khobar Towers, the U.S.S. *Cole* attack, and the African embassy bombings.

What I did not know, Mr. Speaker, up until June of this year, was that that secret program called Able Danger actually identified the Brooklyn cell of al Qaeda in January and February of 2000, over 1 year before 9/11 every happened. In addition, I learned that not only did we identify the Brooklyn cell of al Qaeda, but we identified Mohamed Atta as one of the members of that Brooklyn cell along with three other terrorists who were the leadership of the 9/11 attack.

I have also learned, Mr. Speaker, that in September of 2000, again, over 1 year before 9/11, that Able Danger team attempted on three separate occasions to provide information to the FBI about the Brooklyn cell of al Qaeda, and on three separate occasions they were denied by lawyers in the previous administration to transfer that information.

Mr. Speaker, this past Sunday on ''Meet the Press,'' Louis Freeh, FBI Director at the time, was interviewed by Tim Russert. The first question to Louis Freeh was in regard to the FBI's ability to ferret out the terrorists. Louis Freeh's response, which can be obtained by anyone in this country as a part of the official record, was, Well, Tim, we are now finding out that a top-secret program of the military called Able Danger actually identified the Brooklyn cell of al Qaeda and Mohammed Atta over a year before 9/11.

And what Louis Freeh said, Mr. Speaker, is that that kind of actionable data could have allowed us to prevent the hijackings that occurred on September 11.

So now we know, Mr. Speaker, that military intelligence officers working in a program authorized by the Chairman of the Joint Chiefs of Staff, the general in charge of Special Forces Command, identified Mohammed Atta and three terrorists a year before 9/11, tried to transfer that information to the FBI were denied; and the FBI Director has now said publicly if he would have had that information, the FBI could have used it to perhaps prevent the hijackings that struck the World Trade Center, the Pentagon, and the plane that landed in Pennsylvania and perhaps saved 3,000 lives and changed the course of world history.

Mr. Speaker, I rise tonight because we have been trying to get the story out about Able Danger and what really happened. Unfortunately, Mr. Speaker, I have to rise tonight to tell you that as bad as this story is, and as bad as it is that the data was not transferred to the FBI, and as bad as it is that the 9/11 Commission totally ignored this entire story and referred to it as historically insignificant even though it was authorized by the Chairman of the Joint Chiefs of Staff, even though Louis Freeh has now said it could have provided information to prevent the attack against us, the 9/11 Commission ignored it. Not because the commissioners ignored it, but because someone at the staff level on the 9/11 Commission staff decided for whatever reason that they did not want to pursue the Abel Danger story.

Mr. Speaker, in August and September I met with the military officials involved with Able Danger and one by one they told their story, until, Mr. Speaker, leaders in the Defense Intelligence Agency, including the deputy director, decided they do not want the story told. I think because they perhaps are fearful of being embarrassed and humiliated.

So what direction had they taken, Mr. Speaker?

They have gagged the military officers. They have prevented them from talking to any Member of Congress. They have prevented them from talking to the media. And the Defense Intelligence Agency has began a process to destroy the career and the life of Lieutenant Colonel Anthony Shaffer.

Now, it might be easy for us to ignore this, Mr. Speaker. We all have busy careers and worry about reelections every 2 years and worry about our own families and our jobs. But I cannot do that in this case and neither can this body, and neither can the other body. You see, Lieutenant Colonel Shaffer took an oath to defend our Constitution. He took the words ''duty, honor, country'' seriously and devoted 23 years of his life in four deployed intelligence operations of our military to protect America.

During the time he served our country, he has received the Bronze Star, an award that does not come easily, for showing acts of courage, leadership, and bravery in the course of his activities.

□ 2030

He has received public commendations from previous directors of the Defense Intelligence Agency, including General Patrick Hughes, including generals at Special Forces Command, and including Admiral Wilson of the Defense Intelligence Agency. He has received dozens of letters and commendations for his work. The laudatory comments I reviewed in his files are unbelievable.

But, you see, Mr. Speaker, there is a problem. The Deputy Director of the Defense Intelligence Agency was in a meeting with Lieutenant Colonel Shaffer almost a year before 9/11, and Lieutenant Colonel Shaffer showed him a disk in his office with information about al Qaeda and Mohammed Atta, and the Deputy Director of the Defense Intelligence Agency stopped the briefing and said, you cannot show me that. I do not want to see it. It might contain information I cannot look at.

Now, Tony Shaffer was not in the room alone, Mr. Speaker. There were other people, and we know their names. So we have witnesses. Now, the Deputy Director has denied that meeting and denied he was there and denied this particular story, but the fact is he knows that we are going to pursue it.

So what has happened to Lieutenant Colonel Shaffer, Mr. Speaker? The Defense Intelligence Agency has lifted his security clearance. One day before he was to testify before the Senate Committee on the Judiciary, in uniform, they permanently removed his security clearance. And now our Defense Intelligence Agency has told Colonel Shaffer's lawyer that they plan to seek a permanent removal of his pay and his health care benefits for him and his two children. Why, Mr. Speaker? Because Lieutenant Colonel Shaffer, like Commander Scott Philpot of the Navy, like J. D. Smith, and like a host of other Able Danger employees, has told the truth.

Now, Mr. Speaker, I sat here in the 1990s and I sat here during the 9/11 investigation and watched a ridiculous situation develop with Sandy Berger, the National Security Adviser under President Clinton. He walked into the National Archives before he was to testify before the 9/11 Commission looking through documents. He took documents out of the archives and stuffed them in his socks and pants so that no one would see them as he left the National Archives. Now, that is a felony, tampering with Federal documents and removing classified information regarding our security and information that the 9/11 commission needed to see.

Sandy Berger initially lied about it. He said he did not do it. Then he admitted it, and he was given a punishment. And, oh, by the way, his security clearance was temporarily lifted, but he will get it back again, for lying, for stealing, and for committing an act of outrage against our country's security. Lieutenant Colonel Shaffer, a Bronze Star 23-year military veteran, simply told the truth and now his life is being ruined.

His career is ended. He is no longer in military intelligence. They have taken his security clearance, and they are about to destroy him as a person. They are about to deny him the basic health care and the salary that he has earned, and they are doing it in this way. This is outrageous. It is evil. They do not want to fire Tony because they also do not want him to talk to the media. So by suspending him and removing his pay and his health care, they hurt him bad, but he cannot talk because he is under suspension and his lawyer has advised him that to talk to the media, to talk to Members of Congress, even when he is not being paid, would cause him further problems and totally prevent him from ever having this gross problem reversed. Mr. Speaker, this is outrageous. Mr. Speaker, this is not America.

Over my 19 years in Congress, I have led 40 delegations to the former Soviet Union. I have sat in the face of the Soviet Communists and confronted them on full transparency. I sat at the table with President Lukashenko of Belarus, who has been called by our Secretary of State the last dictator in Europe. I took both delegations to North Korea, Mr. Speaker, and sat across the table from Kim Gye Gwan and I told him we abhor the way they treat their people, the way they lie about what is happening, and the way they distort information.

Mr. Speaker, I took three delegations to Libya to meet with Qadhafi, and I told him that we are absolutely outraged at what Libya did in helping complete the Lockerbie bombing and the bombing of the Berlin nightclub.

You know, Mr. Speaker, I never thought I would have to take the floor of this Chamber and make the same statements about the Defense Intelligence Agency. As a supporter of the President, as a supporter of the military, Mr. Speaker, if we allow this to go forward, then we send the signal to every man and woman wearing a uniform that if you tell the truth, you will be destroyed if a career bureaucrat above you does not like what you are saying. If you tell the truth, we will take your health care benefits away from your kids. If you tell the truth, we will ruin you.

Mr. Speaker, this is not America. Mr. Speaker, this is not what I have been told by Secretary Rumsfeld that we are doing with our troops in protecting them, in giving them the best equipment and the best training. This is not what I spend hours in committee hearings on. This sends the wrong signal to America's troops. It tells them, do not be honest. Do not respect the fact that you have to be truthful. If there is somebody that the truth offends, then you better be silent.

Mr. Speaker, I have today asked for an independent investigation of the Defense Intelligence Agency and their efforts at destroying Tony Shaffer's life. This is outrageous, Mr. Speaker. They trumped up charges against him. They said while he was overseas in Afghanistan, forward deployed, that he forwarded cell phone calls from his official phone to his personal phone; and when they checked that out, it ran up a cost to the taxpayers of about $60. The second verbal charge they gave him was that he went to a course at the Army War College and he got reimbursed for his travel, his mileage and tolls, 100-some dollars. And they said he received a commendation for which he was not entitled, even though it was signed by his commanding officer and the acting Secretary of the Army.

But they went beyond that, Mr. Speaker. They went beyond that with this man. They said he had $2,000 of debt, personal debt. Well, I would like to have every Pentagon employee tomorrow, I would like to have the senior leadership show us what debt they have in the Defense Intelligence Agency so we can make that public.

They even went to this length, Mr. Speaker: the Defense Intelligence Agency wrote in an official document that Lieutenant Colonel Shaffer stole public property. A serious charge. Well, when you check what that public property was, it was an assortment of pens, government pens. But what they did not say in the Defense Intelligence report was that he took those pens when he was 15 years of age and was with his father when he was on assignment at one of our embassy outposts. He took the pens to give to other students at the school when he was 15 years of age. And by the way, Mr. Speaker, it was Tony Shaffer himself who admitted to that thievery when he applied for his security clearance. So the Defense Intelligence Agency knew that during his entire career of 23 years, but they put that in the document against him.

This is a scandal, Mr. Speaker. It is an outrage. It is a travesty. Everyone that worked with Tony Shaffer, the Navy officers, the private citizens have all said the same thing. This is a scandal to get Tony Shaffer because he has told the truth.

Now, this Defense Intelligence Agency and this Deputy Director had the audacity to have their legal counsel send Tony Shaffer's lawyer a letter on September 23. I cannot put that letter in the RECORD because it is privileged information, but it will eventually come out. But in that letter, in the second to last paragraph, the legal counsel for the Defense Intelligence Agency says to Mr. Shaffer's lawyer, he cannot receive any more classified information from the Defense Intelligence Agency because I checked and his security clearances have all been removed. Therefore, he is not allowed to look at anything that is secret or confidential.

Now, that is a letter sent by the general counsel of the DIA on September 23 of this year. Two weeks later, Mr. Speaker, to show the stupidity of the Defense Intelligence Agency, they send seven packages to Mr. Shaffer's lawyer

of his personal belongings, which the Deputy Director of the DIA told my staff 3 months ago did not exist any more. And in those seven boxes, Mr. Speaker, were five classified memos. The Defense Intelligence Agency sent five classified memos to Lieutenant Colonel Shaffer, which they told him on September 23 he was not allowed to have access to.

Mr. Speaker, that is a felony; and I have asked the Inspector General and the legal officials to investigate and prosecute the Defense Intelligence officials who sent five classified documents through the mail or by hand delivery to Tony Shaffer.

In addition, Mr. Speaker, the Defense Intelligence Agency, in its absolute total stupidity, included in those boxes $500 worth of Federal property, including a multi-hundred dollar GPS system owned by the Federal Government, which they sent to Tony Shaffer, I guess to keep. They also sent, Mr. Speaker, 25 pens, brand new, and marked on them is ''Property of the U.S. Government.'' The Defense Intelligence Agency, in its absolute utter stupidity, sent Tony Shaffer Federal property which they accused him of taking when he was 15 years of age.

Mr. Speaker, there is something desperately wrong here. There is a bureaucracy in the Defense Intelligence Agency that is out of control. They want to destroy the reputation of a 23-year military officer, Bronze Star recipient, hero of our country, with two kids because people in defense intelligence are embarrassed at what is going to come out.

And what is going to come out, Mr. Speaker? Well, we are going to find out, Mr. Speaker, that that unit, Able Danger, not only identified Mohammed Atta before 9/11, not only did they try to pass that information to the FBI, not only was that large data destroyed in the summer of 2000, but now, Mr. Speaker, I can add a new dimension to this whole story. Yesterday, Mr. Speaker, I met with another Able Danger official. I was not aware of this official's knowledge because he does not live within the Beltway.

This official, Mr. Speaker, has impeccable credentials. I cannot reveal his name today. I will to any Member of this body, any of our colleagues that want to come to me, I will tell you privately who this official is, and you will agree with me when I tell you his name that he has impeccable credentials. This official yesterday, Mr. Speaker, in a meeting in my office, told me that he has never been talked to by the Pentagon. He has never been talked to by the Defense Intelligence Agency in their supposed investigation. He has never been talked to by the 9/11 Commission staff in their investigation; yet this official had a leadership position in Able Danger.

This official told me that there is a separate cache of information collected from over 20 Federal agencies in 1999 and 2000 on Able Danger that still may exist. Now, the Pentagon has told us all this material was destroyed, and now I have a senior official telling me there is a second pot of information that may well still exist.

Furthermore, at the hearing over in the Senate Committee on the Judiciary, when Senator SPECTER asked why this data was destroyed, the witness who destroyed the data said, well, I was told that we could not keep this data for more than 90 days because it might involve information that contains U.S. persons, so we had to destroy it.

□ 2045

Well, I found out that is not the story. The reason the data was destroyed was because Special Forces Command asked the Army for that data and within a matter of days, that data was destroyed so the Army would not pass it to Special Forces Command. Yet there still is, was and I hope still is a massive pot of data.

But furthermore, that official that I talked to yesterday will also say that there was no 90-day requirement, as was testified before the Senate Committee on the Judiciary. He said on a regular basis they kept information from Able Danger data mining for months and months and months. In fact, he will say he had a discussion with a lawyer in DOD named Schiffren who told him do not worry about it, just fill out a document, sign your name that you need it, put it in the box, and you can keep it as long as you want.

Mr. Speaker, that is entirely contradictory to what the Defense Intelligence Agency has been telling us, to what DOD has been telling us. Now we have someone who is willing to come forward and say that 90-day period is not real, they kept Able Danger information for months and months and months.

Mr. Speaker, there is something desperately wrong here. A sitting President of the United States resigned his position because he tried to cover up a third-rate burglary when some low-level operatives from the Republican committee to reelect him broke into the Democrat headquarters in Washington, D.C. No one was killed. No money was stolen. No State secrets were stolen. It was a third-rate burglary, but it caused the resignation of President Richard Nixon.

Mr. Speaker, we are talking about the deaths of 3,000 Americans.

Mr. Speaker, we are talking about 2.5 terabytes of data about al Qaeda. That is equal to one-fourth of all of the printed material in the Library of Congress.

Mr. Speaker, we are talking about Mohammed Atta and three of the terrorists that attacked us on 9/11.

Mr. Speaker, we are talking about military intelligence officers, including an Annapolis graduate who will command one of our destroyers in January of 2006 who risked his entire career to state on the record I will swear until I die that I saw Mohammed Atta's face every day starting in January of 2000, a year and a half before 9/11.

Mr. Speaker, this is not somebody off the street, this is a graduate of Annapolis, a 23-year Naval officer who will command one of our destroyers in January who is agreeing with Lieutenant Shaffer. We have three other people who have testified under oath that they saw the same photograph, and the person I met yesterday will testify that he had the name of a Mohammed Atta before 9/11 but not the face.

Mr. Speaker, this is not some third-rate burglary coverup. This is not some Watergate incident. This is an attempt to prevent the American people from knowing the facts about how we could have prevented 9/11 and people are covering it up today. They are ruining the career of a military officer to do it and we cannot let it stand. I do not care whether you are Democrat or Republican, you cannot let a lieutenant colonel's career be ruined because of some bureaucrat in the Defense Intelligence Agency. If we let that happen, then no one who wears the uniform will ever feel protected because we will have let them down. Anyone who wears the uniform of this country who is serving today expects us to back him or her up and that is not happening. We are seeing lying, distortion.

Mr. Speaker, do you know, Wolf Blitzer on CNN told my staff that a Department of Defense employee told him that Lieutenant Colonel Shaffer was having an affair with one of my employees. How low can we go, Mr. Speaker? How low can we go to allow this Defense Department to try to ruin the reputation and the personal life of a lieutenant colonel with a Bronze Star? To Wolf Blitzer, Mr. Speaker.

We need to know the name of that defense official who told Wolf Blitzer who told my staff, and he is not the only one. I have other media people who will come forward in this grand effort to destroy the reputation of a uniformed military officer, to create scandalous accusations. He does not even know my staff, to accuse him of stealing pens when he was 15, to take away his health care benefits for his two kids because he is telling the truth.

What do we stand for if not the truth? Is it more important that we be politically correct? Is it more important that I not rock the boat because my party is in the White House, because I campaigned for Bush, and support Don Rumsfeld. Is that more important? If that is more important, I do not want to be here. I will leave. I will leave my post, but I will not do it until we get justice for this man and for these people who the 9/11 Commission called historically insignificant.

Mr. Speaker, there is something wrong inside the Beltway.

Mr. Speaker, there is something desperately wrong when a military officer risks his life in Afghanistan time and again, embedded with our troops under

an assumed name with a false beard and a false identity, forward deployed with our troops, gets castigated, gets ridiculed, gets some low life scum at the Pentagon spreading malicious lies about this individual, and then say to his lawyer, we are going to take away his health care benefits, we are going to take away his salary.

Mr. Speaker, if we allow this to stand as Democrats and Republicans, then none of us deserve to be here. When we all go overseas and meet the troops, we tell them how proud we are of them. We provide funding for them. We give them training and take care of their families. What we are allowing to happen right now is the Defense Intelligence Agency to ruin the career and the life of a man who spent 23 years protecting his Nation. If Lieutenant Colonel Shaffer was telling this story alone in a vacuum, that would be one thing. But he has been corroborated over and over again. I have met with at least 10 people who fully corroborate what Tony Shaffer says. Those meetings with the FBI, the FBI employee still works there and she told the Senate Committee on the Judiciary, I set those meetings up with the FBI to transfer information about al Qaeda and Able Danger. So she is still there and she testified.

What we have here, I am convinced of this now, is an aggressive attempt by CIA management to cover up their own shortcomings in not being able to do what the Able Danger team did: They identified Mohammed Atta and the al Qaeda cell of Brooklyn 1 year before 9/11. But even before that, as the story unfolds, you are going to hear the story that they also identified the threat to the USS *Cole* 2 weeks before the attack, and 2 days before the attack were screaming not to let the USS *Cole* come into the harbor at Yemen because they knew something was about to happen.

Mr. Speaker, bad news never comes easy; but in a democracy, the bad news has to come out so we can make sure it does not happen again.

Mr. Speaker, this whole thing started, not to embarrass anyone, this whole thing started because none of us knew that Mohammed Atta was identified before 9/11. It started because this Congress, this body in particular, tried to establish what is now in place back in 1999, a national collaborative center, but the CIA said we did not need it. The American people deserve to have the answers here. They deserve to know why 3,000 people died. They deserve to know what we could have done and should have done to better prepare ourselves and to work to prepare for the next incident. The American people need to know where those multiple terabytes of data is. Is it still being used? We know in January of 2001, General Shelton was given a 3-hour briefing on Able Danger. So even if they destroyed the data back in the summer of 2000, in January of 2001 there was enough material to give General Shelton, Commander of the Joint Chiefs, a 3-hour briefing.

Mr. Speaker, there is something here. I am not a conspiracy theorist, but there is something desperately wrong, Mr. Speaker. There is something outrageous at work here. This is not a third-rate burglary of a political campaign headquarters. This involved what is right now the covering up of information that led to the deaths of 3,000 people, changed the course of history, led to the invasion of Iraq and Afghanistan, and has disrupted our country, our economy and people's lives.

Mr. Speaker, we could ignore this. I cannot. If it means I have to resign from this body, I will resign. I will not allow, after 19 years in this body and as a vice chairman of the Committee on Armed Services, bureaucrats in the Defense Intelligence Agency to concoct stories, to talk about the theft of pens when this lieutenant colonel was 15 years old, to talk about this man's personal debt of $2,000. I would hate to check the indebtedness of Members of Congress. I know mine is more than $2,000.

Mr. Speaker, this is not America. I had a group of college students down from Drexel University. There were about 20 of them, including representative students from eight other nations. We talked about this. Of course we have talked about all of the problem countries in the world. We talk about our values as a Nation, the need for a democracy to have people involved, to have transparency, to have people who respect the rule of law and the Constitution.

How do I tell them that is what is working here, Mr. Speaker, when the Pentagon says that these people who simply want to tell the truth are not allowed? They are saying it is for classified purposes, yet the DOD lawyer on the Senate side there is nothing classified about any of the information. It is not about classified programs. I would be the last to want to see anything classified revealed. I have seen many, many instances where I have been given sensitive information that only a few people in the Congress and the country had. I would never reveal it. It is not about that. This is not about the DIA, this is not about the CIA, this is about CYA. It is about CYA by bureaucrats in the Defense Intelligence Agency and possibly some political operatives that do not want the facts to come out about Able Danger and the information that the Able Danger team put together. And in the process, they are going to destroy a man, a man who has been recognized by his country, who has a family, and who simply wants to do the right thing.

Mr. Speaker, I hated to take the floor tonight, but I did not know what else to do. We have committees of Congress working on this. I want to thank the gentleman from Virginia (Mr. WOLF), chairman of the FBI Appropriation Committee on Oversight. He is as outraged as I am. I want to thank the gentleman from Wisconsin (Mr. SENSENBRENNER), who is looking at this, and the gentleman from California (Chairman HUNTER). The Committee on Armed Services has a full-time staffer assigned to get to the facts of this. I want to thank the gentleman from New York (Mr. KING), chairman of the Committee on Homeland Security, because he is looking at this. I want to thank the gentleman from Michigan (Chairman HOEKSTRA) and the Permanent Select Committee on Intelligence. He has met with Tony Shaffer and has offered to get more information. I want to thank my colleagues on the other side of the aisle for standing up and beginning to ask questions, and I want to thank Senator SPECTER and Senator BIDEN, who attended a Committee on the Judiciary hearing and expressed their outrage. I want to thank Senator SESSIONS, Senator KYL, and Senator GRASSLEY, who were all there. In fact, Senator GRASSLEY called it a coverup.

Mr. Speaker, I cannot tell you the number of Members who have come to me and said this is unacceptable. I would hope that as a result of what we have heard tonight every Member of Congress will ask for an inquiry. The gentlewoman from Georgia (Ms. MCKINNEY) wrote a letter to the chairman of the Committee on Armed Services asking for an investigation. We have from Republicans to Democrats, left to right, conservatives to liberals. What is happening here is unacceptable. It is unimaginable. It is un-American. All over the world tonight, young Americans are wearing our uniforms. They are doing a great job. They make us all proud when we travel overseas. They make us proud because of the pride they have. When I talk to them, they say I am glad to be doing what I am doing. I am doing the right thing for our country. I will go any place the Commander in Chief sends me. Whether I am in Afghanistan or Iraq, they will tell me that.

□ 2100

Whether we are in Kosovo or Somalia, they will tell us that. Whether we are at Hurricane Katrina, whether we are at Hurricane Andrew, or whether we are out in California, the earthquake, or the Midwestern floods, our troops are all the same. They respect our country. They respect our Constitution. If we allow this travesty to continue, Mr. Speaker, then we have let all of those people down for some nameless, faceless bureaucrat who is fearful that the information will finally come to light, that the DIA just did not get it.

Back in 1999 and 2000, they did not have a clue. They had millions of dollars, hundreds of millions of dollars, and could not do what a 20-member team did in being able to identify Mohammed Atta before the 9/11 attacks. DIA does not want that to come out, Mr. Speaker. They do not want that to come out. Heaven forbid the Defense Intelligence Agency, with hundreds of millions of dollars, would have a 20-member team do what they could not

do because they were using new technology and new software. They do not want that to come out. That is why that Deputy Director, when he was at that meeting, said, I do not want to see this. Do not show it to me. And that is why today that Deputy Director is trying to ruin the career of Lieutenant Colonel Shaffer.

The only way to resolve this, Mr. Speaker, is to have a full independent investigation by the Inspector General of the Pentagon. I have asked Secretary Rumsfeld today to do that. I would ask my colleagues on both sides of the aisle to join me in that request. Let the independent inspector for the Pentagon go in, not DIA. DIA cannot investigate itself. It does not have the capability to do that. It does not have the integrity to do that. Let the Inspector General do the investigation and while that is being done, protect Lieutenant Colonel Shaffer. He does not deserve to have his career ruined or destroyed for telling the truth.

And while we are at it, Mr. Speaker, if DIA is going to continue to press this ridiculous set of facts, then as I said earlier, I want DIA prosecuted for the five felonies they committed in sending classified documents to a person that 2 weeks earlier they said was incapable of receiving classified information. And if this continues, I want DIA held responsible for illegally transferring $500 of public assets to a person, that in the process of sending that stuff to him, DIA committed fraud against the taxpayers. I want them held accountable: DIA's stupidity; DIA's incompetence.

We have a new nominee for the head of DIA, and I am going to ask every Senator to fully explore each of these issues before that person is confirmed. I will meet with every Senator personally and go over all of this information. And I would encourage the Senators and the House Members to interview the other people who worked with Lieutenant Colonel Shaffer and to get their assessments of what is going on there. They will all tell them the same thing: Shaffer is being abused and used as a scapegoat. If they can ruin Shaffer, they can silence the story.

It cannot happen, Mr. Speaker. We cannot let it. That is not what America is about. That is not what we say to our enlisted personnel when they sign up for duty. That is not what we say when we pass our defense bills every year.

This man is being maligned and mistreated. He is being harassed. The most scurrilous accusations, totally unfounded, have been given to the American media; and I will name names, and I will ask for an investigation of the people who made those statements to these media people because it all needs to be put on the record.

And as someone tomorrow who will chair another hearing on our defense oversight to try to get the best value for the dollars for our military, I ask all of our colleagues, Mr. Speaker, on both sides of the aisle to join us. This is not Republicans or Democrats. It is about what is fundamental to this country. I would ask our constituents across America we represent to join us, to express their outrage, to e-mail, make phone calls, write letters to the Secretary of Defense, the President of the United States, to Members of Congress to simply let the story be told. Let the Able Danger story finally come out to the American people. Let them understand what really happened. Let Scott Philpott talk. Let Tony Shaffer talk. Let the others who have been silenced have a chance to tell their story to Congress and openly to the American people. In the end, the country will be stronger.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MCDERMOTT) to revise and extend their remarks and include extraneous material:)

Mr. DEFAZIO, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Mr. GEORGE MILLER of California, for 5 minutes, today.

Ms. SOLIS, for 5 minutes, today.

Mr. CUMMINGS, for 5 minutes, today.

Mr. STUPAK, for 5 minutes, today.

Mr. RYAN of Ohio, for 5 minutes, today.

Mr. MARKEY, for 5 minutes, today.

Mr. MEEHAN, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

Mr. BUTTERFIELD, for 5 minutes, today.

Ms. HERSETH, for 5 minutes, today.

(The following Members (at the request of Mr. YOUNG of Florida) to revise and extend their remarks and include extraneous material:)

Mr. BURTON of Indiana, for 5 minutes, today.

Mr. MORAN of Kansas, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. GOHMERT, for 5 minutes, today.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1886. An act to authorize the transfer of naval vessels to certain foreign recipients; to the Committee on International Relations.

ENROLLED BILL SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 3971. An act to extend medicare cost-sharing for qualifying individuals through September 2007, to extend transitional medical assistance and the program for abstinence education through December 2005, to provide unemployment relief for States and individuals affected by Hurricane Katrina, and for other purposes.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 155. An act to adjust the boundary of Rocky Mountain National Park in the State of Colorado.

S. 156. An act to designate the Ojito Wilderness Study Area as wilderness, to take certain land into trust for the Pueblo of Zia, and for other purposes.

BILL PRESENTED TO THE PRESIDENT

Jeff Trandahl, Clerk of the House reports that an October 14, 2005, he represented to the President of the United States, for his approval, the following bill.

H.R. 2360. Department of Homeland Security Appropriations Act, 2006.

ADJOURNMENT

Mr. WELDON of Pennsylvania. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 5 minutes p.m.), the House adjourned until tomorrow, Thursday, October 20, 2005, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

4576. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting the Department's final rule — West Indian Fruit Fly; Regulated Articles [Docket No. 04-127-2] received October 4, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4577. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting the Department's final rule — Mexican Fruit Fly; Quarantined Areas and Treatments for Regulated Articles [Docket No. 02-129-5] received October 4, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4578. A letter from the Under Secretary, Food, Nutrition, and Consumer Services, Department of Agriculture, transmitting the Department's final rule — Commodity Supplemental Food Program — Plain Language, Program Accountability, and Program Flexibility (RIN: 0584-AC84) received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4579. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting the Department's final

rule — Asian Longhorned Beetle; Removal of Regulated Areas [Docket No. 05-011-2] received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4580. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting the Department's final rule — Brucellosis in Swine; Add Florida to List of Validated Brucellosis-Free States [Docket No. 05-009-2] received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4581. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting the Department's final rule — Noxious Weed Control and Eradication Act; Delegation of Authority [Docket No. 05-012-1] received September 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4582. A letter from the Administrator, Agricultural Marketing Service, Fruit and Vegtable Programs, Department of Agriculture, transmitting the Department's final rule — Marketing Order Regulating the Handling of Spearmint Oil Produced in the Far West; Revision of the Salable Quantity and Allotment Percentage for Class 1 (Scotch) and Class 3 (Native) Spearmint Oil for 2005-2006 Marketing Year [Docket No. FV05-985-2 IFR] received September 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4583. A letter from the Administrator, Agricultural Marketing Service, Fruit and Vegtable Programs, Department of Agriculture, transmitting the Department's final rule — Nectarines and Peaches Grown in California; Increased Assessment Rates [Docket No. FV05-916-3 FR] received September 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4584. A letter from the Administrator, Agricultural Marketing Service, Fruit and Vegtable Programs, Department of Agriculture, transmitting the Department's final rule — Amendment to the Peanut Promotion, Research, and Information Order [FV-05-701-IFR] received September 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4585. A letter from the Administrator, Agricultural Marketing Services, Department of Agriculture, transmitting the Department's final rule — Milk in the Mideast Marketing Area; Interim Order Amending the Order [Docket No. AO-166-A39; DA-05-01-A] received September 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4586. A letter from the Agricultural Marketing Agency, Science and Technology Programs, Department of Agriculture, transmitting the Department's final rule — Plant Variety Protection Office, Fee Increase [Doc. No. ST-05-02] (RIN: 0581-AC42) received September 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4587. A letter from the Comptroller, Department of Defense, transmitting a report of a violation of the Antideficiency Act by the Department of the Navy, Case Number 04-06, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

4588. A letter from the Comptroller, Department of Defense, transmitting a report of a violation of the Antideficiency Act by the Department of the Navy, Case Number 04-05, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

4589. A letter from the Comptroller, Department of Defense, transmitting a report of a violation of the Antideficiency Act by the Department of the Navy, Case Number 04-02, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

4590. A letter from the Under Secretary for Acquisition, Technologyand Logistics, Department of Defense, transmitting revisions to the National Defense Stockpile Annual Materials Plan (AMP) for fiscal year 2006, pursuant to 50 U.S.C. 98d; to the Committee on Armed Services.

4591. A letter from the Assistant to the Secretary, Nuclear and Chemical and Biological Defense Programs, Department of Defense, transmitting revisions to the Counterproliferation Program Review Committee report entitled, ''Report on Activities and Programs for Countering Proliferation and NBC Terrorism''; to the Committee on Armed Services.

4592. A letter from the Assistant General Counsel, Division of Regulatory Services, Department of Education, transmitting the Department's final rule — Safe and Drug-Free Schools Programs, Final Priority and Other Application Requirements — received August 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

4593. A letter from the Assistant General Counsel, Division of Regulatory Services, Department of Education, transmitting the Department's final rule — Innovation for Teacher Quality (RIN: 1855-AA04) received July 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

4594. A letter from the Assistant General Counsel, Division of Regulatory Services, Department of Education, transmitting the Department's final rule — Alcohol and Other Drug Prevention Models on College Campuses — received August 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

4595. A letter from the Assistant Secretary, Office of Vocational and Adult Education, Department of Education, transmitting the Department's final rule — Community Technology Centers Program — September 20, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

4596. A letter from the Secretary, Department of Energy, transmitting the Department's Annual Report on Federal Government Energy Management and Conservation Programs during Fiscal Year 2003, pursuant to 42 U.S.C. 6361(c); to the Committee on Energy and Commerce.

4597. A letter from the Secretary, Federal Trade Commission, transmitting the Report to Congress for 2003 pursuant to the Federal Cigarette Labeling and Advertising Act, pursuant to 15 U.S.C. 1337(b); to the Committee on Energy and Commerce.

4598. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting the President's determination and certification for Fiscal Year 2006 under Section 102(a)(2) of the Arms Export Control Act, pursuant to 22 U.S.C. 2799aa–2; to the Committee on International Relations.

4599. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of an Accountability Review Board to examine the facts and the circumstances of the loss of life at a U.S. mission abroad and to report and make recommendations, pursuant to 22 U.S.C. 4834(d)(1); to the Committee on International Relations.

4600. A letter from the NSPS Senior Executive, Department of Defense, transmitting comments on proposed regulations for the National Security Personnel System from unions representing Department of Defense employees; to the Committee on Government Reform.

4601. A letter from the Executive Director, Commission on Federal Election Reform, transmitting the Commission's report entitled, ''Building Confidence in U.S. Election: The Report of the Commission on Federal Election Reform''; to the Committee on House Administration.

4602. A letter from the Secretary, Department of the Interior, transmitting a progress report on the Department's continuing effort to provide an historical accounting for individual Indian monies; to the Committee on Resources.

4603. A letter from the Under Secretary for Emergency Preparedness and Response, Department of Homeland Security, transmitting notification that funding under Title V, subsection 503(b)(3) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, has exceeded $5 million for the response to the emergency declared as a result the influx of evacuees from areas struck by Hurricane Katrina beginning on August 29, 2005 in the State of Texas, pursuant to 42 U.S.C. 5193; to the Committee on Transportation and Infrastructure.

4604. A letter from the Assistant Secretary of the Army, Civil Works, Department of the Army, transmitting a legislative proposal regarding the Civil Works program of the Army Corps of Engineers; to the Committee on Transportation and Infrastructure.

4605. A letter from the Assistant Secretary, Civil Works, Department of the Army, transmitting the Department's status report on the Great Lakes Tributary Model required by Section 516(e-g) of the Water Resources Development Act; to the Committee on Transportation and Infrastructure.

4606. A letter from the Secretary, Department of Transportation, transmitting the Administration's March 2005 report to Congress entitled, ''Use of Dedicated Trains for Transportation of High-Level Radioactive Waste and Spent Nuclear Fuel,'' pursuant to Public Law 101–615, section 15; to the Committee on Transportation and Infrastructure.

4607. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Determination of Amount of Original Issue Discount (Rev. Rul. 2005-47) received August 10, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4608. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Changes in accounting periods and in methods of accounting. (Rev. Proc. 2005-47) received August 10, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4609. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Value of Life Insurance Contracts when Distributed from a Qualified Retirement Plan [TD 9223] (RIN: 1545-BC20) received September 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4610. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Returns Prepared For or Executed by Secretary (Rev. Rul. 2005-59) received September 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4611. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Determination of Interest Rate (Rev. Rul. 2005-62) received September 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4612. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Additional Relief for Certain

Employee Benefit Plans as a Result of Hurricane Katrina [Notice 2005-60] received September 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4613. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Last-in, first-out inventories. (Rev. Rul. 2005-45) received August 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4614. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Converting an IRA Annuity to a ROTH IRA [TD 9220] (RIN: 1545-BE66) received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4615. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Examination of returns and claims for refund, credit or abatement; determination of tax liability (Rev. Proc. 2005-64) received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4616. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Administrative, Procedural, and Miscellaneous (Rev. Proc. 2005-66) received September 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4617. A letter from the Chairman, International Trade Commission, transmitting the Commission's report on investigation No. TA-204-12, entitled, ''Steel: Evaluation of the Effectiveness of Import Relief,'' pursuant to 19 U.S.C. 2254(d)(3); to the Committee on Ways and Means.

4618. A letter from the Chairman, United States International Trade Commission, transmitting the eleventh annual report on the Andean Trade Preference Act (ATPA) entitled ''Impact on U.S. Industries and Consumers and on Drug Crop Eradication and Crop Substitution,'' pursuant to 19 U.S.C. 3204; to the Committee on Ways and Means.

4619. A letter from the Under Secretary for Personnel and Readiness, Department of Defense, transmitting the Department's notification to Congress of determinations that institutions of higher education have a policy or practice of denying military recruiting personnel entry to campuses, access to students on campus, or access to student recruiting information, pursuant to 10 U.S.C. 983; jointly to the Committees on Armed Services and Education and the Workforce.

4620. A letter from the Inspector General, Department of Health and Human Services, transmitting a report on the adequacy of reimbursement rate under the new methodology for Medicare reimbursement of drugs and biologicals, pursuant to 42 U.S.C. 1395w–3a note Public Law 108–173, section 303(c)(3)(B); jointly to the Committees on Energy and Commerce and Ways and Means.

4621. A letter from the Secretary, Department of Health and Human Services, transmitting the Administration's draft proposal that would protect and strengthen the financing of the Medicare program, as described in the President's fiscal year 2006 Budget; jointly to the Committees on Energy and Commerce and Ways and Means.

4622. A letter from the Secretary, Department of Health and Human Services, transmitting a waiver of certain Medicare, Medicaid, and State Children's Health Insurance Program Requirements, pursuant to 42 U.S.C. 1320b–5 Public Law 107–188, section 143(a)(1135)(f); jointly to the Committees on Ways and Means and Energy and Commerce.

4623. A letter from the Fiscal Assistant Secretary, Department of the Treasury, transmitting the Department's March 2005 ''Treasury Bulletin,'' pursuant to 26 U.S.C. 9602(a); jointly to the Committees on Ways and Means, Transportation and Infrastructure, Resources, Energy and Commerce, Education and the Workforce, and Agriculture.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mrs. MALONEY:

H.R. 4077. A bill to provide additional funding to prevent sexual assaults in the military; to the Committee on Armed Services.

By Mr. NORWOOD (for himself and Mr. WHITFIELD):

H.R. 4078. A bill to amend part B of title XVIII of the Social Security Act to establish a floor for Medicare physician payment rates for 2006 at the level for 2005; 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. SULLIVAN (for himself, Mr. BURTON of Indiana, Mr. TANCREDO, Mr. HAYWORTH, Mr. GOODE, Mr. JONES of North Carolina, Mr. HEFLEY, and Mr. GARRETT of New Jersey):

H.R. 4079. A bill to reduce the number of visa overstays and to ensure that illegal aliens are apprehended, detained, and removed as rapidly as possible; to the Committee on the Judiciary, and in addition to the Committee on Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. CUBIN (for herself, Mr. OSBORNE, Mr. FORTENBERRY, and Mr. TERRY):

H.R. 4080. A bill to extend the contract for the Glendo Unit of the Missouri River Basin Project in the State of Wyoming; to the Committee on Resources.

By Mr. GARRETT of New Jersey:

H.R. 4081. A bill to ensure that emergency appropriation funds for hurricane assistance relief are used only for individuals in affected areas; to the Committee on Transportation and Infrastructure.

By Ms. HART (for herself, Mr. NEAL of Massachusetts, Mr. REYNOLDS, Mr. ENGLISH of Pennsylvania, Mr. HAYWORTH, and Mr. GERLACH):

H.R. 4082. A bill to permit biomedical research corporations to engage in certain financings and other transactions without incurring limitations on net operating loss carryforwards and certain built-in losses, and for other purposes; to the Committee on Ways and Means.

By Mr. GOODE (for himself, Mr. HUNTER, Mr. GINGREY, Mr. HAYWORTH, Mr. ROGERS of Alabama, Ms. FOXX, Mr. BARRETT of South Carolina, Mr. JONES of North Carolina, Mr. GARRETT of New Jersey, Mr. TANCREDO, Mr. NORWOOD, Mr. DEAL of Georgia, Mr. DAVIS of Kentucky, Mr. SULLIVAN, Mr. BROWN of South Carolina, Mr. WILSON of South Carolina, Mr. SAM JOHNSON of Texas, Mr. CULBERSON, Mr. POE, Mr. CARTER, Mr. ROHRABACHER, Mr. RADANOVICH, Mr. HOSTETTLER, Mr. SESSIONS, and Mr. KING of Iowa):

H.R. 4083. A bill to direct the Secretary of Homeland Security to construct a fence along the southern border of the United States; to the Committee on Homeland Security.

By Mr. HERGER:

H.R. 4084. A bill to amend the Forest Service use and occupancy permit program to restore the authority of the Secretary of Agriculture to utilize the special use permit fees collected by the Secretary in connection with the establishment and operation of marinas in units of the National Forest System derived from the public domain, and for other purposes; to the Committee on Agriculture, 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.

By Ms. HOOLEY:

H.R. 4085. A bill to amend the Elementary and Secondary Education Act of 1965 to improve certain accountability and assessment provisions; to the Committee on Education and the Workforce.

By Mr. JINDAL:

H.R. 4086. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit for health insurance costs of eligible disaster relief recipients; to the Committee on Ways and Means.

By Ms. NORTON (for herself and Mr. TOM DAVIS of Virginia):

H.R. 4087. A bill to permit nonjudicial employees of the District of Columbia courts, employees transferred to the Pretrial Services, Parole, Adult Probation, and Offender Supervision Trustee, and employees of the District of Columbia Public Defender Service to have periods of service performed prior to the enactment of the Balanced Budget Act of 1997 included as part of the years of service used to determine the time at which such employees are eligible to retire under chapter 84 of title 5, United States Code, and for other purposes; to the Committee on Government Reform.

By Mr. PALLONE:

H.R. 4088. A bill to impose limitations on the use of eminent domain for purposes of economic development; to the Committee on the Judiciary, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. POE (for himself, Mr. SIMMONS, Mr. MCCOTTER, Mr. GOODE, Mr. TERRY, Mr. PETRI, Mr. SAM JOHNSON of Texas, Mr. MCHENRY, Mr. WAMP, Mr. FEENEY, Mr. CHABOT, Mr. GUTKNECHT, Mr. RYAN of Wisconsin, Mr. NEUGEBAUER, Mr. SODREL, Mr. CULBERSON, Mr. PITTS, Mr. AKIN, Mr. FORTUÑO, Mr. FLAKE, Mr. PENCE, Mr. HENSARLING, and Mr. WELDON of Florida):

H.R. 4089. A bill to require Government credit card bills to be made available to the public, and for other purposes; to the Committee on Government Reform.

By Mr. MCCRERY:

H. Res. 501. A resolution providing for the concurrence by the House with amendments in the amendment of the Senate to H.R. 3971; considered and agreed to.

By Mr. LATOURETTE (for himself and Mr. RYAN of Ohio):

H. Res. 502. A resolution expressing the sense of the House of Representatives with respect to the senseless and unwarranted criminal prosecution of 2nd Lt. Erick J. Anderson, United States Army; to the Committee on Armed Services.

By Mr. MCCOTTER:

H. Res. 503. A resolution condemning the actions taken by the Government of Cameroon against Henry Fossung and others, and

for other purposes; to the Committee on International Relations.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

180. The SPEAKER presented a memorial of the Legislature of the State of Texas, relative to House Concurrent Resolution No. 15, urging the Congress of the United States to support the American Veterans Home Ownership Act of 2005; to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 37: Mr. FITZPATRICK of Pennsylvania.
H.R. 278: Mr. FEENEY.
H.R. 303: Mr. RENZI.
H.R. 475: Mr. SHAYS.
H.R. 503: Mr. AL GREEN of Texas.
H.R. 515: Mr. ENGLISH of Pennsylvania.
H.R. 551: Mr. DAVIS of Illinois.
H.R. 567: Mr. LIPINSKI.
H.R. 596: Mrs. SCHMIDT.
H.R. 698: Mr. BARRETT of South Carolina, Mrs. MUSGRAVE, and Mr. MCHUGH.
H.R. 756: Mr. FITZPATRICK of Pennsylvania.
H.R. 856: Mr. PLATTS.
H.R. 874: Mr. PUTNAM.
H.R. 896: Mr. BUTTERFIELD.
H.R. 923: Mr. MARCHANT, Mr. HALL, Mr. FORD, Mr. MILLER of Florida, and Mr. BISHOP of Georgia.
H.R. 949: Mr. CASTLE.
H.R. 983: Mr. BLUMENAUER.
H.R. 1059: Mr. DINGELL.
H.R. 1227: Mr. SCHWARZ of Michigan, Mr. GILCHREST, and Mr. KING of New York.
H.R. 1245: Mr. FRELINGHUYSEN.
H.R. 1298: Mr. DOYLE.
H.R. 1498: Mr. SALAZAR, Mr. CLAY, Mr. WOLF, Mr. BISHOP of New York, and Mr. LOBIONDO.
H.R. 1597: Mr. ANDREWS.
H.R. 1615: Ms. LINDA T. SAŃCHEZ of California.
H.R. 1631: Mr. COSTA.
H.R. 1688: Mr. MILLER of North Carolina.
H.R. 1736: Mrs. KELLY.
H.R. 1951: Mr. PORTER, Mr. MARKEY, Mr. SESSIONS, and Mr. OBERSTAR.
H.R. 1952: Mrs. MALONEY.
H.R. 1973: Mr. FARR.
H.R. 2045: Mr. UPTON.
H.R. 2051: Mr. BURGESS, Ms. JACKSON-LEE of Texas, Mr. MCHUGH, and Mr. LEVIN.
H.R. 2259: Ms. BERKLEY.
H.R. 2335: Mr. TANNER and Mr. SOUDER.
H.R. 2337: Mr. RENZI.
H.R. 2357: Mr. SCHWARZ of Michigan.
H.R. 2391: Mr. CONYERS and Mr. BLUMENAUER.
H.R. 2410: Mr. NEAL of Massachusetts.
H.R. 2567: Mr. FRELINGHUYSEN and Mr. ROTHMAN.
H.R. 2646: Mr. BASS.
H.R. 2694: Mr. THOMPSON of Mississippi.
H.R. 2717: Mr. LANGEVIN, Mr. GENE GREEN of Texas, Ms. MILLENDER-MCDONALD, Mr. TOWNS, Mr. SERRANO, and Mrs. EMERSON.
H.R. 2793: Mr. PETERSON of Minnesota, Mr. LARSEN of Washington, Mr. FILNER, and Mr. THORNBERRY.
H.R. 2803: Mr. WILSON of South Carolina.
H.R. 2842: Mr. WELDON of Florida.
H.R. 2892: Mr. DAVIS of Kentucky and Mr. FILNER.
H.R. 2989: Ms. BERKLEY.
H.R. 3096: Mr. BAIRD and Mr. MCGOVERN.
H.R. 3137: Mr. BLUNT, Mr. SHIMKUS, Mrs. BLACKBURN, Mr. BRADY of Texas, Mr. MCCRERY, Mr. ROHRABACHER, and Mr. WICKER.
H.R. 3146: Mr. LANGEVIN.
H.R. 3147: Mr. MILLER of Florida.
H.R. 3174: Mr. REYES.
H.R. 3273: Mr. GILCHREST.
H.R. 3301: Mr. POMBO.
H.R. 3333: Mr. BEAUPREZ.
H.R. 3361: Mr. BERMAN.
H.R. 3505: Mr. SOUDER.
H.R. 3520: Ms. GINNY BROWN-WAITE of Florida and Ms. CARSON.
H.R. 3555: Mr. CROWLEY and Mr. SCOTT of Virginia.
H.R. 3561: Mr. FALEOMAVAEGA, Ms. HERSETH, Ms. NORTON, Ms. MILLENDER-MCDONALD, Mr. FILNER, and Mrs. MALONEY.
H.R. 3630: Mr. SCHWARZ of Michigan.
H.R. 3664: Mr. THOMPSON of Mississippi.
H.R. 3684: Mrs. BLACKBURN.
H.R. 3698: Ms. BERKLEY, Ms. ROYBAL-ALLARD, Mr. BISHOP of Georgia, and Mr. HONDA.
H.R. 3711: Ms. WASSERMAN SCHULTZ and Ms. LEE.
H.R. 3717: Mr. RUPPERSBERGER, Mr. BARTLETT of Maryland, Mrs. SCHMIDT, Mr. MCKEON, and Mr. JINDAL.
H.R. 3752: Mr. THOMPSON of Mississippi.
H.R. 3774: Ms. CORRINE BROWN of Florida, Mr. EVANS, and Mr. BERMAN.
H.R. 3776: Mr. SHADEGG and Mr. GOODE.
H.R. 3806: Mr. SHADEGG.
H. R. 3858: Mr. WU, Mr. TIERNEY, Mr. LEWIS of Georgia, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. EVANS, Mr. SCHWARZ of Michigan, Mrs. LOWEY, and Ms. WATSON.
H.R. 3870: Mr. INGLIS of South Carolina.
H.R. 3889: Mrs. CUBIN, Mr. CHABOT, Mr. SIMMONS, and Mr. SHADEGG.
H.R. 3910: Mr. AKIN.
H.R. 3931: Mr. DAVIS of Florida, Mr. ENGEL, Mr. PRICE of North Carolina, Mr. CLYBURN, Mr. CLAY, and Mr. LOBIONDO.
H.R. 3938: Mr. ROYCE and Mr. MARCHANT.
H.R. 3943: Mr. MILLER of Florida, Mr. ISTOOK, Mr. COBLE, and Mr. DENT.
H.R. 3944: Mr. BOEHLERT.
H.R. 3947: Mr. UPTON.
H.R. 3957: Mr. DICKS and Mr. GREEN of Wisconsin.
H.R. 3974: Mr. BERRY, Mr. BARROW, and Mr. MCCAUL of Texas.
H.R. 3979: Mr. GIBBONS.
H.R. 3985: Mr. PAUL and Mr. FORTUÑO.
H.R. 4008: Mr. DUNCAN, Mr. SALAZAR, Mr. ABERCROMBIE, and Mr. BURTON of Indiana.
H.R. 4023: Mr. BURTON of Indiana, Mrs. EMERSON, Mr. ENGLISH of Pennsylvania, Mr. Gonzalez, Mr. HALL, Mr. HINOJOSA, Mr. KUCINICH, Mr. MEEKS of New York, Mr. MICHAUD, Mr. SANDERS, Ms. LINDA T. SÁNCHEZ of California, Mr. STRICKLAND, Mr. WYNN, Mr. LEVIN, Mr. BACA, Mr. PAYNE, Ms. LEE, Mr. SKELTON, and Ms. VELÁZQUEZ.
H.R. 4049: Mr. HONDA.
H.J. Res. 54: Mr. GARRETT of New Jersey.
H.J. Res. 55: Mr. MEEKS of New York.
H. Con. Res. 10: Mr. FRANK of Massachusetts.
H. Con. Res. 174: Mr. PICKERING.
H. Con. Res. 190: Mr. PENCE, Ms. ROS-LEHTINEN, and Mr. ISSA.
H. Con. Res. 231: Mr. UDALL of Colorado and Mr. DEFAZIO.
H. Con. Res. 251: Mr. SCHWARZ of Michigan, Mr. PASTOR, Mr. MILLER of Florida, and Mr. CONAWAY.
H. Con. Res. 252: Mr. DREIER, Mr. OXLEY, and Mr. KOLBE.
H. Res. 85: Mr. DUNCAN and Mr. WHITFIELD.
H. Res. 447: Mr. CONYERS.
H. Res. 477: Ms. DELAURO and Mr. KILDEE.
H. Res. 485: Mr. SNYDER, Mr. ORTIZ, Mr. PETERSON of Minnesota, and Mr. CONYERS.
H. Res. 499: Mr. EVANS.

PETITIONS, ETC.

Under clause 3 of rule XII, petitions and papers were laid on the clerk's desk and referred as follows:

73. The SPEAKER presented a petition of the City of Evanston, Illinois, relative to Resolution No. 50–R–05, urging the return of United States Troops from Iraq; which was referred to the Committee on International Relations.

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Congressional Record

PROCEEDINGS AND DEBATES OF THE 109th CONGRESS, FIRST SESSION

Vol. 151 WASHINGTON, WEDNESDAY, OCTOBER 19, 2005 No. 133

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.

Eternal Spirit, who seeks and finds us, let Your light shine on us today. May its bright beams provide us with answers to our questions, assurances for our doubts, strength for our weakness, and vision for our duty.

Illuminate the path of our Senators with the clarity of Your wisdom, so that whatever they say or do will bring honor to You.

Make our lives shining lights of Your goodness that people will see our faithful labors and glorify Your name. Help us to live to bless others.

We pray in the Spirit of Him who is the light of the world. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

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

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business for up to 60 minutes, with the first half of the time under the control of the Democratic leader or his designee and the second half of the time under the control of the Republican leader or his designee.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning we will start with a 60-minute period for morning business. Following that time, at approximately 10:45 or so, we will return to the pending business, which is the Transportation-Treasury-HUD appropriations bill. We expect to have two votes in relation to the minimum wage issue today. I hope we can schedule those votes early.

We need to make substantial progress on the underlying bill today, and I hope we can get back to amendments pertaining to matters within the scope of the bill. The two managers have been on the floor since Monday, and I know they are prepared to bring this bill to a close as soon as possible. I would reiterate again that we will finish this bill this week, with votes on Friday if necessary.

In addition to the Transportation-Treasury appropriations bill, we continue to move forward with resolve to meet our overall governing responsibilities. Given the significant, unexpected expenditures for Katrina, the Senate will meet the challenge of making tough choices about spending priorities. Most of my days, and the days of my leadership colleagues, have been spent in helping pull people together, in making those tough choices which are focused on restraining Government spending.

That does start at home in this body. Thus, yesterday the Senate overwhelmingly voted to eliminate congressional pay raises. I believe that was an appropriate action. It shows we are serious as we look for savings throughout the Government, and it starts at home in this body.

Eight committees of the Senate are hard at work doing the exact same thing, and that is prioritizing. I thank and commend the committees and their chairs and ranking members—the HELP Committee, the Banking Committee, the Environment and Public Works Committee—for their success yesterday in meeting those goals set out in the budget. I thank the chairmen and the committee members for their tremendous progress to date.

SADDAM HUSSEIN TRIAL

Mr. FRIST. Mr. President, today begins what is no less than the trial of the century, the trial of Saddam Hussein.

For the first time in recent history, a former leader will stand before his own people to be judged and tried for his crimes against humanity. For the first time, the Iraqi people will hear and watch the ''Butcher of Baghdad'' answer for 23 years of terror.

Saddam's crimes are surpassed only by the Rwandan genocide, Pol Pot's killing fields, and the tyrannies of Hitler, Mao, Stalin, and Kim Jong Il.

Egyptians, Kuwaitis, and Iranians were put to death simply because he decreed so. Saddam killed Kurds because of their ethnicity. And he killed Shiites because of their religion, Sunnis for their political views. Even babies and toddlers fell victim to the firing squad.

As Prime Minister al-Jafari said yesterday, there will be no tears for Saddam Hussein. But most surely, there will be tears for the hundreds of thousands of lives he crushed and destroyed with utter ruthlessness.

The trial of Saddam will reveal to the Iraqis and to the world the full extent of his brutality. And as the crimes are tallied and recorded, he will face the full judgment of the people and the uncompromising judgment of history.

I am confident justice will be served and that Saddam and his henchmen will be treated fairly and appropriately. And I am hopeful the process

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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will be an opportunity for the Iraqi people to experience some measure of catharsis and closure on a dark and terrible chapter in their history.

I commend them for their courage to restrain the desire for vengeance and to commit to the rule of law. It cannot be easy. Saddam's abuse ran deep and ran wide. But by granting him a fair trial—an opportunity to answer the charges—the Iraqi people are showing that Saddam's brutality was born of his nature and not theirs.

Cicero once said:

> Let us remember that justice must be observed even to the lowest.

Today, let it be said that justice will be observed even by the once mighty.

Mr. President, I yield the floor.

RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDENT pro tempore. The acting Democratic leader is recognized.

Mr. DURBIN. Thank you, Mr. President.

IRAQ AND THE INTERNATIONAL STRATEGIC ENVIRONMENT

Mr. DURBIN. Mr. President, Secretary of State Condoleezza Rice is testifying today at the Senate Foreign Relations Committee. She will be meeting with the full Senate later for a classified briefing.

I am sure one of the topics that will be discussed at length will be the Iraqi constitutional referendum of this last Saturday. That vote was an important milestone. The voting by so many Iraqis was again a demonstrable act of courage. It is my most sincere hope that in the months to come, the political process in Iraq moves forward, that a stable government takes control in Iraq, and that Iraq takes control of its own future.

But similar to many of my colleagues, and a growing majority of Americans, we will not be satisfied with the status quo or the stay-the-course answers that we hear over and over from the White House when it comes to the situation in Iraq. The most fundamental questions we have to ask of this President and this administration are, What is your plan for victory? What is your plan for success? What is your plan to bring American troops home from Iraq?

It now seems evident that the constitution will pass. It also seems evident that despite substantial opposition from the Sunni minority, no province will reject this constitution or, if any do, there will not be enough to, in fact, reject the whole document.

Sunnis make up 20 percent of the population but 90 percent of the insurgency in Iraq. Sectarian violence is claiming the lives of thousands of Iraqis. We can't even calculate how many. Some are fearful that this country could still fall apart.

Saturday's election is no guarantee of long-term democracy in Iraq, but it was an important step forward and one that I applaud. The government that may now emerge needs to build legitimacy in Iraq and with its neighbors. It needs to take back control of its country from insurgency, chaos, and lawlessness so that American troops can come home.

Iraq cannot succeed if the Sunnis—one in five of the Iraqis—feel disenfranchised and alienated. It is a challenge to their leaders to put together a government now that truly reflects their country, to build not just a coalition of tribes but a nation. This must happen because the cost of destroying and now replacing the governing regime in Iraq has been so costly.

Saturday was a good day in Iraq, for sure. But the elections last January 30 also represented a good day for Iraq, and 543 Americans have lost their lives in Iraq since that election last January. Mr. President, 15,063 American service men and women have been wounded in Iraq, and 1,979 Americans have been killed. We are closing in on that awesome figure of 2,000 of our best and bravest soldiers having given their lives in Iraq.

Iraq passed an important milestone Saturday with the constitutional referendum. The process was a refreshing demonstration of democracy at work in a region unaccustomed to such a display of civic participation. But the product, some have argued, is flawed. Nonetheless, Iraqis, with their vote, have taken a step in this political process forward. This opportunity for Iraq has come at a high cost for America.

As the number of Americans killed continues to grow, and the number of injured increases as well, do we have a clear plan in place? At what moment in time will the Iraqi Army battalions be prepared to step forward so that Americans can step back? At what point in time will the Iraqi police force, the Iraqi security forces, say, ''We can now control our own country and now Americans can go home''?

This administration gives us the vaguest notion that it is somehow wrong to think about when that date may come. Perhaps it is wrong to announce it but not to have a plan to reach it. It is something that concerns me.

A few weeks ago, Generals Casey and Abizaid told a meeting in Congress that only one battalion was prepared to stand and fight by itself in Iraq today—only one battalion of the Iraqi Army. It is a far cry from 150,000-plus American soldiers who stand and fight today, who risk their lives today.

Today, the trial of Saddam Hussein is beginning. We were greeted this morning with all the major news organizations showing the closed-circuit videotape and film of the trial. It is a good thing that he is standing trial because he is a vicious murderer, a thug, and a monster of a human being.

However, Americans are questioning, still, whether or not we have paid too heavy a price for this day to have arrived and asking of this administration, now that he is standing trial: How much longer will we be standing trial in Iraq as we wait for the outcome each day of the bloody fighting?

What has changed since May of 2003 is that the costs of the war have risen, are still climbing; the trust the American people have placed in the President has been shaken. What has also changed is, while the cost of war continues to grow, the alleged justifications for the war have multiplied, and the clarity of our purpose has diminished dramatically. This is a terrible and tragic combination.

Saddam was a monster. That is true. But we must never forget that of all the many reasons given to us by this administration to invade Iraq, the evil nature of Saddam was the only one that has proven true. Except for the brutality of Saddam Hussein—as bad as it was, as horrible as it was—all the other reasons for going to war the administration put forth turned out not to be accurate. There were no weapons of mass destruction. We still, many years later, have found no evidence of that claim, made over and over and over again at the highest levels of this administration.

The 9/11 Commission showed us there was no support for al-Qaida in Iraq. Yet as recently as last Sunday, Secretary of State Condoleezza Rice tried to again link al-Qaida and 9/11 with Saddam Hussein.

The 9/11 Commission made it clear, there is no linkage. The war has not increased our own security. Some can argue—and I think convincingly—that it has made the world a more dangerous place. It has created a training ground for terrorism in Iraq where insurgents come from surrounding countries to train themselves in killing American soldiers, to go out and do even worse to Americans and others all around the world.

The only reason left for this war was the removal of Saddam Hussein. Two-thirds of Americans, when they measure that benefit against the enormous cost in blood and treasure, conclude it may not have been worth that price. Nearly $200 billion has been spent, nearly 2,000 Americans have been killed, and the pricetag goes up every day in terms of American lives and American treasure.

Our national interest has suffered in other ways as well. The war has altered the international strategic environment to our disadvantage. Let's begin with Iran. Iran gives every sign that it is determined to acquire nuclear weapons. Such a development threatens regional stability and our own national security. It is not in our interest or the world's interest. In August, the Bush administration went to the diplomats of more than a dozen countries and presented an hour-long slide show on Iran's nuclear program. This PowerPoint briefing incorporated satellite imagery and other data to try to convince other nations that Iran's nuclear program is aimed at producing

weapons, not energy. But who could look at such a slide show and not think back to February 2003, when Secretary of State Colin Powell made a similar case to the United Nations about the existence of weapons of mass destruction in Iraq? An embarrassing moment. That was, in my opinion, the low point in a very distinguished and noble public career of national service of Secretary of State Colin Powell. Indeed, it was the stature of Secretary Powell alone that lent such force to that argument. To learn later that the facts were not there had to be a crushing blow to this man who has given so much to America.

Two years later we found no weapons of mass destruction. Mohamed ElBaradei and the International Atomic Energy Agency told us there were no weapons of mass destruction. We ignored them. They asked for more time to prove their point; we rejected it. The Bush administration decided we had to invade. We couldn't wait for allies. We couldn't wait for proof. We couldn't wait. Now ElBaradei and the IAEA have been proven right and recently were awarded the Nobel Peace Prize.

The damage to our national credibility by presenting a distorted case for the war has been severe. Our ability to persuade the international community is now diminished. So is our ability to draw in allies to join us in this effort. And the beneficiaries of our policies sadly have been many rogue nations. Like the boy who cried wolf, America now must overcome the damage done to our credibility by false claims that we laid before the world as the justification for the invasion of Iraq. At the same time, the dangers of terrorism to our Nation, our personnel, and citizens abroad, and our friends and allies have grown. The war in Iraq drained away financial resources, military forces, and intelligence experts from the war on terror. Osama bin Laden still remains at large, over 4 years after September 11. Where terrorists once had training camps to hone their skills, they now have a war itself in Iraq. Sadly, our soldiers are their targets.

Recently, the Director of National Intelligence released a letter apparently from Ayman al-Zawahiri, the No. 2 leader in al-Qaida, to Mr. al-Zarqawi, the group's top agent in Iraq. The letter provides a chilling portrait of a cold-blooded terrorist. I know many people will try to use this letter to solidify their arguments of why we need to stay in Iraq. I don't advocate a precipitous tomorrow-like withdrawal from Iraq. I think that would be disastrous. But the Zawahiri letter is one more piece of evidence that Iraq has now become a center of terrorist activity, whereas before the war it was not. The horrible irony of this war is that President Bush's invasion has created more energy behind terrorism in the Middle East.

The President is offering America a false choice when he says we have to decide between resolve and retreat in Iraq. We must not just withdraw, but we cannot simply stay the same course that has brought us to this place in time. If we simply withdraw now, the current instability in Iraq would balloon into a full civil war, and we will have produced another failed state, owned and operated by terrorists like the Taliban in Afghanistan. If we just keep doing what we have been doing, we will continue to spend American tax dollars and, more importantly, sacrifice the lives of our brave soldiers. We must take positive action to try to alter the strategic equation that has fueled terrorism and placed a heavy strain on our Army, National Guard, and Reserves, constrained our options toward Iran and North Korea, and cost us nearly 2,000 American lives in Iraq.

Diplomacy has to be part of this new campaign. Our military leaders make it clear, they cannot defeat the insurgency. The way to defeat insurgency is politically and economically and diplomatically. Right now there are almost no troops from Muslim nations who are fighting at the side of the Iraqi government. There are almost no Arab diplomats in Iraq. Secretary of State Condoleezza Rice must reach out to the Arab gulf states and others and convince them that a secure and stable Iraq is in their interest as well as ours and that they must assume some of the risk and burden of this enterprise. That is no easy sell, given the way we have approached this war to date. But it is an effort that we must undertake, along with the Iraqis themselves.

The President needs to let the Iraqi people know that we will not remain indefinitely in Iraq, and communicate that message to the rest of the world as well. The Iraqi government and its security forces need to prepare for assuming all the functions expected of them by a free and sovereign Iraqi people to defend their own nation so American troops can come home. The administration's admission, however, that only one battalion of the Iraqi army is capable of operating on its own does not really bring us any closer to meeting this goal. It is the responsibility of the administration to make it clear why we have not done better in training and preparing Iraqi soldiers to replace American soldiers, and it is the responsibility of this administration to train Iraqi security forces so that, in fact, our soldiers can come home. It is time for the people and leaders of Iraq to take control of their own country and their own destiny.

We are not abandoning Iraq. Indeed, we and Iraqis themselves must reach out to other partners, especially the predominantly Muslim countries, to collaborate in the consolidation of Iraqi security and democracy. We are not setting a date for departure. We are simply letting the Iraqis know, in the clearest possible terms, that we intend to bring our forces home. Reminding all concerned that we will not stay refutes the assertion that we intend to establish permanent military bases in Iraq, an allegation that, unfortunately, fuels the insurgency.

We should do nothing that would mislead the Iraqis into thinking they have unlimited time to take control of their own destiny. An unending American occupation is neither in Iraq's interest nor in ours. If the Iraqis made progress on Saturday, moving toward a constitution, moving toward a government, moving toward a nation, we must tell them that there is a responsibility of nationhood that goes beyond the obvious establishment of government. The most important responsibility is to secure your own borders, to protect your own people, to provide for the common defense of your own nation. Now that is a responsibility that must be shouldered by the Iraqis. If we are uncertain in speaking to this new Iraqi government about our plans and our timetable in Iraq, then I think they will count on American soldiers to be there risking their lives indefinitely. That is unacceptable.

This administration has to make it clear that Iraqi army soldiers are prepared to shoulder that burden and to give relief to American soldiers so that they can return home to a hero's welcome and to their families who wait anxiously for that day.

I yield the floor.

The PRESIDING OFFICER (Mr. VITTER). The Senator from Delaware.

HURRICANE KATRINA RESPONSE

Mr. CARPER. Mr. President, today I rise to discuss how we could be doing better in our response to Hurricane Katrina. I just spoke with one of Louisiana's Senators coming over to the Chamber to speak, and the word that I heard with respect to the situation on the ground, particularly the response of FEMA to the ongoing crisis, was discouraging. We can do better. We have to be able to do better for the people there and for those who are footing the bill, the taxpayers.

Hurricane Katrina was truly an unprecedented event. It was in all likelihood the worst natural disaster in our Nation's history. It was certainly the worst natural disaster I have witnessed in my lifetime. I can understand then that there might be some mistakes made, that there might not be easy solutions to some of the problems faced by millions of Americans directly affected by this storm. But I believe there are too many key areas where we have experienced clear failures that just cannot be shrugged off. We have all heard about the slow initial response to the storm. We have also heard about the no-bid contracts that probably weren't necessary. But I am going to speak for a few minutes today about a truly distressing failure that is leading to hardship among Katrina evacuees and is also wasting a lot of Federal taxpayer dollars.

As my colleagues are aware, hundreds of thousands of gulf coast residents have seen their homes severely

damaged. Too many have seen them completely destroyed. Many of these people are still living far away from home, with little or no hope of returning to their communities any time soon, if ever. FEMA has moved swiftly in recent weeks to move Katrina evacuees out of temporary mass shelters that we saw in places such as the Astrodome in Houston. The problem is that many evacuees are still living in hotels today, waiting for FEMA to move them to longer term temporary housing. There have been a number of media reports recently that FEMA is currently spending millions of dollars every day to house hundreds of thousands of these evacuees in hotels around our country. The total cost of this program, according to the Washington Post this morning, will likely approach $200 million by the end of this month alone. Worse yet, FEMA has apparently not even been keeping track of the number of evacuees in hotels.

I ask unanimous consent that several articles on this subject 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, Oct. 19, 2005]

A BIG CUT IN KATRINA'S HOTEL BILL

(By Jacqueline L. Salmon and Spencer S. Hsu)

PROGRAM EVACUEES WERE MISCOUNTED, RED CROSS SAYS

The American Red Cross said yesterday that it has vastly overstated the number—and potential cost—of Hurricane Katrina evacuees staying in hotel rooms because of errors in how it interpreted its data.

Embarrassed officials from the charity acknowledged that instead of housing 600,000 displaced people, the hotel program—paid for by the federal government—is housing 200,000 storm evacuees.

Red Cross officials attributed the error to the misreading of daily reports from a consultant handling the hotel placements: Staff members mistook a cumulative tally of people who had lived in hotels to date for the daily hotel population.

''Clearly, somewhere we went off the track,'' said Armond Mascelli, Red Cross vice president for domestic response operations.

Compounding the error, the Federal Emergency Management Agency kept no independent count of the program's beneficiaries or its costs, said FEMA spokeswoman Mary-Margaret Walker. She said FEMA apparently was relying on the erroneous numbers as it searched frantically for other housing options for evacuees.

The revision in the number of people in hotels could cut in half the $425 million estimate for the program. It is also prompting FEMA to reevaluate long-term housing needs for storm evacuees, said spokeswoman Frances Marine. This month, FEMA's acting director, R. David Paulison, estimated that 400,000 to 600,000 households will require mid- to long-term housing.

The Red Cross said yesterday that it now expects the program to cost about $220 million. FEMA does not pay for hotel rooms until it gets receipts, so the error has not cost the agency, Marine said.

FEMA officials said 1.6 million people have registered for assistance because of Hurricane Katrina and 700,000 people have sought help for damage caused by Hurricane Rita.

The hotel program, conceived by the Red Cross as shelters overflowed immediately after Katrina ravaged the Gulf Coast, has become the main housing program for evacuees.

This week, FEMA told housing industry representatives that it plans to move storm evacuees out of hotels and into a less costly rental-assistance program as soon as Dec. 1.

FEMA officials have concluded ''that it's going to be quite a while before a lot of people can actually go back. Therefore, keeping people in hotels and motels for any extended period of time doesn't make sense,'' said Jim Arbury, a senior vice president for the National Apartment Association and National Multi Housing Council.

Red Cross officials said they learned of the error after a New York Times reporter alerted them to it Monday night. It comes as the charity tries to raise $2 billion in private donations to cover its costs of caring for Katrina victims, a figure that does not include the hotel program.

The blunder is a black eye for the Red Cross that could taint the entire nonprofit sector, warned Paul Light, a New York University professor of public service.

''It's hugely embarrassing for the sector,'' Light said. ''I don't believe there is any malfeasance here. But . . . the notion that the Red Cross simply cannot track where the money is going feeds into this growing concern that charities cannot be trusted to spend their money wisely.''

[From the New York Times, Oct. 13, 2005]

$11 MILLION A DAY SPENT ON HOTELS FOR STORM RELIEF

(By Eric Lipton)

WASHINGTON, Oct. 12.—Straining to meet President Bush's mid-October deadline to clear out shelters, the federal government has moved hundreds of thousands of evacuees from Hurricane Katrina into hotel rooms at a cost of about $11 million a night, a strategy local officials and some members of Congress criticize as incoherent and wasteful.

The number of people in hotels has grown by 60 percent in the past two weeks as some shelters closed, reaching nearly 600,000 as of Tuesday. Even so, relief officials say they cannot meet the deadline, as more than 22,000 people were still in shelters in 14 states on Wednesday.

The reliance on hotels has been necessary, housing advocates say, because the Federal Emergency and Management Agency has had problems installing mobile homes and travel trailers for evacuees and has been slow to place victims in apartments that real estate executives say are available throughout the southeast.

Hotel costs are expected to grow to as much as $425 million by Oct. 24, a large expense never anticipated by the FEMA, which is footing the bill. While the agency cannot say how that number will affect overall spending for storm relief, critics point out that hotel rooms, at an average cost of $59 a night, are significantly more expensive than apartments and are not suitable for months-long stays.

Officials in cities from Dallas to Atlanta, which are accommodating thousands of evacuees, give credit for getting 90 percent of the victims out of shelters. But they say they are frustrated by FEMA's record in helping place people in more adequate housing.

''Deplorable. Disappointing. Outrageous. That is how I feel about it,'' said the Atlanta mayor, Shirley Franklin, a Democrat, in a telephone interview on Wednesday. ''The federal response has just been unacceptable. It is like talking to a brick wall.''

Even conservative housing experts have criticized the Bush administration's handling of the temporary housing response. ''I am baffled,'' said Ronald D. Utt, a former senior official at the Department of Housing and Urban Development and Reagan administration aide who is now a senior fellow at the Heritage Foundation, the conservative research organization. ''This is not incompetence. This is willful. That is the only way I can explain it.''

Nicol Andrews, a FEMA spokeswoman, said the federal government was moving as quickly as it could to find temporary housing. But the scale of the catastrophe has made it difficult, she said.

''Clearly we have never encountered the size and scope of a disaster like Hurricane Katrina,'' she said. ''Housing half a million people is a challenge by any standard.''

The American Red Cross started the hotel program days after Hurricane Katrina struck, when it became clear that the shelters it had opened were not adequate to deal with the 600,000 to 700,000 families displaced by the storm, a spokeswoman, Carrie Martin, said.

The hotel program was intended to last a couple of weeks but has twice been extended by FEMA. Now Red Cross officials are saying there is no end to the initiative, which pays for 192,424 rooms in 9,606 hotels across the United States, in a range of cities as diverse as Casper, Wyo., and Anchorage, Alaska.

Congress last month appropriated a $62.3 billion for the relief effort, most of it designated for FEMA. The agency had told Congress that it expected to spend more than $2 billion to buy up to 300,000 travel trailers and mobile homes to house displaced residents. The agency also planned to give out $23.2 billion in assistance to victims for emergency needs and for temporary housing and housing repairs.

But the temporary housing program has been troubled since the start, observers say. Instead of setting up as many as 30,000 trailers and mobile homes every two weeks, as of Tuesday, just 7,308 were occupied. Even counting berths on the four ships that FEMA has leased and rooms on military bases and elsewhere, the agency has provided only 10,940 occupied housing units for victims in the three Gulf states.

FEMA, reacting to criticism that it might create super-concentrated slums, has scaled back plans to build so-called FEMA villes with up to 25,000 trailers.

Even a less ambitious plan—complexes with 200 or so units—has been slow to unfold. FEMA officials cite the reluctance by some rural parishes or landowners to welcome evacuees.

But landowners and some state officials in Louisiana blame bureaucratic fumbles by FEMA. Bill Bacque, co-owner of a trailer park in Lafayette, La., said he offered property for 45 trailers within days of the storm. Negotiations with FEMA were still under way this week, he said. ''Things do not move fast,'' Mr. Bacque said.

Late last month, FEMA began handing out $2,358 for three months so that families in shelters or hotels could rent apartments.

To date, more than 415,000 households have been approved for that aid, totaling $979 million. But FEMA officials cannot say how many families have used the money for apartments, or simply spent it on expenses while also living in a government-financed hotel room.

David Degruy, his wife, Debra, and their six children, of New Orleans, have done just that while staying in two rooms paid for by FEMA at the Greenway Inn and Suites in Houston.

''We're trying to save the money so that when do get in a house we'll be able to buy things,'' Mr. Degruy said. ''We eat out sometimes, we buy clothes, personal hygiene things.''

Some officials criticize FEMA for a passive approach in dealing with cities and hurricane evacuees.

Representative Barney Frank, Democrat of Massachusetts, who sits on a House panel that helps oversee the housing effort, complained that it was unreasonable for the federal government to expect that a family led by jobless parents, with no car, little savings and little familiarity with a new city could independently find an apartment.

''The administration's policy is incoherent and socially seriously flawed,'' he said in an interview.

Real estate officials say that although there are few available apartments in Louisiana, there are many vacancies in apartment buildings across the South, including perhaps 300,000 in Texas alone.

''What are these guys doing?'' Jim Arbury, an official with the National Multi Housing Council, a group of building owners and managers, said of FEMA. ''All of this housing is available now.''

Some housing experts say the Bush administration should follow the approach taken after the 1994 Northridge earthquake in Los Angeles, when displaced residents were given prepaid housing vouchers instead of having to negotiate and pay a lease on their own.

''We are wasting money hand over fist because we did not deploy the right policy tools,'' said Bruce Katz, a vice president at the Brookings Institution, a liberal research group in Washington. ''We could have thousands, if not tens of thousands of families, in stable permanent housing right now. And we would not have to turn to these costly measures, like hotels, motels and cruise ships.''

Ms. Andrews, the FEMA spokeswoman, defended the housing policy. ''The program is designed to give those who it affects the most the control over their own lives,'' she said.

Some cities, including Houston and San Antonio, have taken an active role in helping families find housing by creating their own voucher program, identifying vacant units, paying for six-month leases and then turning over the unit to the evacuees. FEMA has promised to reimburse the cities for the housing costs.

''You can't just give people a check and say, 'Good luck, we will see you,''' said San Antonio's assistant city manager, Christopher J. Brady. ''It would not be a sufficient solution.''

FEMA officials said other cities can set up similar programs. But Mayor Franklin of Atlanta and Mayor Laura Miller of Dallas have said they cannot do so without being paid in advance by the federal government.

Expressing frustration that she could not offer more help to the 39,000 displaced people who have come to Georgia, Mayor Franklin said FEMA's expectations that her city could advance housing money were unrealistic.

''Our government is not large enough to do that,'' she said. ''We can't absorb the costs.''

[From the Washington Post, Oct. 12, 2005]

HOUSING AID CALLED TOO MUCH, TOO LITTLE

(By Spencer S. Hsu)

FEMA CRITICS CITE WASTE AS EVACUEES STRAN TO PAY RENT

The Federal Emergency Management Agency's evolving efforts to shelter Hurricane Katrina victims continue to waste huge amounts of taxpayer dollars and could soon leave many evacuees short of money and facing eviction, according to renter advocates and housing industry officials.

The concerns focus on FEMA's extension of an $8.3 million-a-day program to house 549,000 people in hotel rooms beyond an Oct. 15 deadline and its handling of a new rental assstance program, which offers displaced families a lump sum of $2,358 for three months' rent. The disaster agency has previously drawn criticism for its troubled $1 billion-plus effort to house hurricane evacuees in 125,000 trailers.

The National Low Income Housing Coalition, an advocacy group, said that ecause the rent program is based on the $786-per-month national median rent for a two-bedroom apartment—rather than city-by-city rates used by the Department of Housing and Urban Development—many evacuees taken to more costly cities are already short on cash. Typically, the coalition said, renters must pay a deposit and first month's rent; it cited Washington as an example, where the average rent is about $1,100 and where about 5,000 people have been resettled.

Apartment owners say they also are encountering problems collecting rents because FEMA hands money directly to storm victims, instead of using housing vouchers or payments to landlords as HUD does for some low-income renters. Some families that left their homes with only what they could carry have used FEMA's cash for food, clothing and transportation.

''We felt if we did the right thing, FEMA would step up and provide housing assistance for all these folks. Here we are four weeks later, and a lot of these folks simply do not have rent money to pay,'' said Kirk H. Tate, a member of Houston's Katrina housing task force and a parter at Orion Real Estate Services Inc., which manages 12,000 apartments in the city.

Houston authorities welcomed 20,000 Katrina households into rental units in as few as three or four days, mostly waiving deposit and rent requirements, Tate said. ''The last thihg we want to have to do is ask for them to move out when they can't pay the rent,'' he said, but property owners have mortgages, utilities and expenses to pay and may need to start eviction proceedings by month's end.

Benicha McCraney, 49, left New Orleans two days before Hurricane Katrina with two children and a suitcase holding three days' worth of clothes. Now the family lives in a $1,096-per-month two-bedroom apartment in a suburban Houston complex called Tranquility Bay.

She received $2,358 for three months from FEMA but estimates her monthly expenses at about $1,700.

With $1,500 in savings and her husband, a police officer, fearing he will be laid off in New Orleans, McCraney is worried about paying for children's clothes when the weather cools.

McCraney is not facing eviction yet, but having lost her home to floodwaters, she is postponing replacing the worn tires on her car. ''I would like to stay here as long as I can,'' she said. ''I don't have anywhere else in the world to go.''

The warnings come as a wide range of players in the nation's housing and lodging industries express mounting exasperation with FEMA's shifting efforts to cope with the evacuee crisis. Although the administration has proposed cruise ships, trailers, President Bush's nascent ''urban homesteading'' initiative, hotels and now apartment grants, they say FEMA is ignoring advice from experts inside and outside the government.

''The normal FEMA programs just aren't working. They may be good for 1,500, 2,000 people, but when you're talking a half a million, they do not work,'' said Douglas S. Culkin, executive vice president of the National Apartment Association.

Culkin said 1 million rental units are vacant in the southeastern United States at half the rate of FEMA's $1,770-a-month hotel program. He called the current spending rate of $250 million a month ''a horrendous waste of tax dollars.''

Linda Couch, deputy director of the low-income housing coalition, agreed that taxpayer money could be saved by using vacant apartment units. ''If the federal government made a choice to subsidize them at the rents they are available at, it looks like it still would be less than having them live in a hotel,'' she said.

FEMA spokeswoman Nicol Andrews said that the agency's rental aid program can be extended to 18 months. If renters keep receipts and show that their housing costs exceed $786 a month, FEMA will allow them to spend more on rent, Andrews said. But Congress has set a $26,200 limit per family for FEMA aid of all kinds, including home repairs, for Katrina victims.

Andrews acknowledged that the trailer process is not moving as fast as the agency would like. She declined to comment on criticism from the housing sector but noted that FEMA is establishing huge new programs and that shelter populations have dropped 75 percent in two weeks.

The scale of Katrina's exodus is immense and growing. On Thursday, FEMA's acting director, R. David Paulison, increased the agency's estimate of the number of families expected to need housing for up to several months, from 300,000 to between 400,000 and 600,000.

FEMA said Friday that the number of people in temporary shelters, which Bush has pledged to clear by mid-October, has fallen to 31,500 from a peak of more than 300,000. FEMA is providing rental assistance to 412,000 displaced households and has registered 2 million storm victims.

''The recovery process for Hurricane Katrina will be neither fast nor easy,'' Paulison said. ''Many . . . rightfully are concerned about the cost, as we all are.''

Critics in Congress and elsewhere have focused on large trailer contracts and the difficulty FEMA has encountered in acquiring trailers and sites for trailer parks. So far about 6,800 FEMA trailers are occupied by emergency workers and evacuees across the Gulf Coast. Some also have criticized spending $236 million to house 7,000 people on three Carnival Cruise Lines ships.

Last week, three major national apartment owner associations criticized FEMA for ignoring their offers of help and expressed bewilderment over why the agency extended the hotel program. The average room rate of $59 per day is more than twice the cost of rental vouchers in HUD's low-income Section 8 housing program and the rental aid provided by FEMA and HUD to Katrina victims. It also exceeds the median monthly rent in some of the nation's most expensive cities.

The groups cited 50,000 vacant apartments in Dallas-Fort Worth alone and 1 million in the southeastern United States at rents that range from $700 to $1,200 a month— vacancy totals confirmed by others outside the industry.

''Our message is simple. There are currently tens of thousands of available rental units that would offer evacuees the opportunity to more quickly recover from their devastating losses,'' the National Multi Housing Council, the National Apartment Association and the National Leased Housing Association wrote to HUD Secretary Alphonso Jackson and Homeland Security Secretary Michael Chertoff. ''To extend the hotel program indefinitely prolongs homelessness and makes no sense,'' they said.

Housing officials point to the city of Dallas's Project Exodus as an example of better planning. It has placed about 1,000 people in 481 apartments using $2.5 million raised through contributions by individuals and large companies. The units rent for HUD market rates, including utilities. Although city funds are set to expire after 60 days, Dallas expects FEMA to pick up costs after that.

Houston also has agreed to pay up to 12 months of housing assistance for Katrina victims, hoping for FEMA reimbursement, Tate said.

About 37,000 evacuees are in Dallas area hotel rooms, said Miller, and more than 150,000 evacuees are in rooms across Texas.

''We said, We can't wait for FEMA,''' said Dallas Mayor Laura Miller. ''What worries me is reading about all these other cities who are waiting for trailer homes to show up so they can re-create these trailer villages. That would be the worst thing you can do.''

Mr. CARPER. While it is certainly reasonable to house evacuees in hotels on a short-term basis, this situation is simply unacceptable nearly 2 months after Katrina struck the coast. I am told that real estate and housing experts have pointed out that perhaps hundreds of thousands of suitable and likely much more affordable apartments could be had throughout the gulf coast region. I am certain that they could probably be had for significantly less than the cost of a hotel room. In addition, the Washington Post recently reported that a joint FEMA–HUD rental assistance program is likely wasting millions of dollars. In at least some cases, the program is not doing much to help evacuees in some parts of the country find suitable housing.

Each evacuee participating in the voucher program, according to the Post, initially receives a subsidy amount based on the national median rent for 3 months. In some parts of the country, such as Houston, the national median rent probably isn't enough to find suitable housing. In other communities, it might be more than enough. This means that Katrina evacuees in some parts of the country may be getting more assistance than they need, and those in higher cost areas might not be getting what they need to provide for their families.

It has been suggested that the solution to the housing crisis in the gulf might be to place evacuees in trailers or some other form of manufactured housing. But I have heard reports that FEMA is buying many of its trailers straight off the lot at retail prices. I have also heard that there are thousands of trailers just sitting around unoccupied in vacant lots. We have all heard stories about how miserable some of the trailer camps are to live in that FEMA has set up in places like Florida.

We can do better than this. FEMA owes it to Katrina victims and to the American taxpayers to find a more comfortable, less expensive way to house our fellow Americans who are going through such a difficult time right now. That is why I am sending a letter today to Acting FEMA Director David Paulison to ask him to tell us exactly what FEMA's plan is to get Katrina evacuees out of hotels and into more stable living environments so that they can begin the process of bringing their lives as close to normal as possible.

The problems and the waste we are seeing in FEMA's Katrina housing program remind me yet again that we need to do some work to ensure that the money we are spending to help Katrina victims is spent wisely and effectively. To date we have approved in the Congress $62 billion for Katrina. More money will probably be needed, but given the number of stories we see almost on a daily basis now about financial mismanagement, about confusion at FEMA, and the Department of Homeland Security, we should not be writing a blank check.

A recovery effort this large needs additional oversight to make sure the money we are spending is going to the people who need it most, to make sure we eliminate wasteful spending and get the most bang for our buck, and to make sure we reduce the potential for fraud.

It is my understanding that we are not sure what legislation is coming to the floor next week. I have a suggestion. The Homeland Security and Governmental Affairs Committee, of which I am a member, approved two bills a couple of weeks ago that I believe are desperately needed to make sure Katrina recovery funds are spent properly and go to the people who are most in need.

One of the bills we passed would appoint a chief financial officer to oversee the day-to-day use of Federal funds in the cleanup and reconstruction efforts underway in the gulf. I cosponsored this legislation with Senator COBURN of Oklahoma and Senator OBAMA of Illinois. It enjoys bipartisan support, including the cosponsorship, I believe, of both the Republican leader and Democratic leader of the Senate.

The chief financial officer would oversee the various Federal agencies involved in the recovery efforts and hold them financially accountable. The CFO would be Congress's personal watchdog, issuing periodic financial reports about whether the money is going to the people who need it the most and whether it is being used to hire local workers who need jobs.

The second bill would expand the authority of the inspector general assigned to Iraq reconstruction to oversee the Katrina recovery efforts. The expanded office would audit recovery operations and investigate allegations of waste, fraud, and inefficiency.

Together, these two bills would better protect American taxpayers and bring some much-needed accountability to the recovery efforts.

We shouldn't settle for the stories we see in the papers every day about the lack of decent housing for Katrina victims or the lack of competition for Federal contracts. We shouldn't read stories about waste and resign ourselves to the fact that waste is just something that happens in the Federal Government. We can do better, and we must. We owe it to the American taxpayers to do better, and we owe it to Katrina's victims to do better.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAHAM. 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. GRAHAM. Mr. President, I ask permission to speak in morning business until Senator BROWNBACK arrives.

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

IRAQ

Mr. GRAHAM. Mr. President, I think it is appropriate this morning that those of us in elected office, and every American, show some appreciation for what is going on in Iraq this morning.

I turned on the television and saw a new face of Iraq. I saw a judge schooled in the law, loyal to the law, presiding over a trial of Saddam Hussein, a person who was schooled in thuggery, loyal to himself and his agenda, one of the most brutal murderers the Middle East has known. And I saw an attorney general laying out the case against Saddam Hussein.

How did that all happen? It happened through sheer will. First, violence had to replace diplomacy because diplomacy was failing. The effort to contain Saddam Hussein's regime, to rein it in, to clearly understand what his purposes were about weapons of mass destruction, to get him to stay out of the upheaval of the Middle East, to be a productive member of the Middle East society, the world community, in my opinion, failed miserably and we had to resort to force and violence to oust a man who had perpetuated many crimes against his own people and his neighbors.

How did it happen, at the end of the day? It happened through the bravery, commitment, and sacrifice of the American military, their coalition partners, and the Iraqi people themselves.

We have lost around 2,000 troops since the war began. To those families who have lost loved ones, there is nothing I can say other than I am sorry and, in my opinion, for what it is worth, your loved ones have advanced the cause of freedom by participating in a military operation to take Saddam Hussein off the throne and into the dock as a defendant.

To those coalition members who have stood with us and who have sacrificed, thank you. Because of your sacrifice, the cause of freedom has been advanced.

We do not appreciate enough, in my opinion, the sacrifice of the Iraqi people. I believe it is the judge or one member of the court whose brother was assassinated. To sit in judgment of Saddam Hussein is no easy thing to do. They are literally risking their lives to be a prosecutor, a policeman, or member of the army. They wear a target on

their back. Their families are at risk because the terrorists see it as a risk to their way of life. Those who take up arms against the terrorists in Iraq are literally changing the course of history.

To those men and women who have served in the American military, those who have lost life and limb, I hope you take pride in what is happening today. To the families of the loved ones who have been lost, those who have been injured, and those who are still serving, because of your sacrifice and commitment, your willingness to leave your comfort zones, to leave your family and friends, Guard members and Reservists leaving their businesses and loved ones behind, you have changed the course of Middle East history.

At the end of the day, we can't kill enough terrorists to win. Terrorism is about hijacking of a great religion. There is no place in the terrorist world for a different faith, people of moderation in the Islamic community, and there is no role for a woman. For that to change, it is going to have to be deeper than force of arms. It is going to have to be a transformation of a culture.

The culture of the rule of the gun versus the rule of law is happening before our eyes. What is going on today in Iraq is a sea change in the Middle East. It is about time a dictator in that region answers for his crimes. It is about time people in that region be allowed to live their lives in a normal fashion and raise their kids in peace.

That day is still far away, but we are closer than we have ever been. So to those men and women serving in our American military and those who have suffered, congratulations and God bless. Because of your sacrifice and those sacrifices of our coalition partners and the Iraqi people, there has been a sea change in the Middle East and you deserve all the credit.

I hope the American people will be patient to see this thing through because what happens in Iraq is directly related to our own security.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. BROWNBACK. Mr. President, I have come to the floor to make a statement about the situation taking place in Darfur and to update my colleagues. But I wish to speak briefly to my colleagues and to others about the amazing trial of Saddam Hussein that has started.

This is a trial that is going to reveal a great deal about what took place, the carnage that happened under his rule, and what he did to the people of Iraq. I worked with a number of Iraqi dissidents over a period of time. The things they reported—the mass graves, the persecutions, the intimidation by this Government of Saddam Hussein—is something that has not been well revealed. Hopefully, that is going to come out in this trial. We will see change as it progresses.

DARFUR

Mr. BROWNBACK. Mr. President, I wish to update my colleagues on what is taking place in Sudan in the Darfur region. This is something about which I spoke several times in this Chamber. It is a genocide as the Senate, the House, and the President declared it a genocide. Others at the U.N. call it crimes against humanity. Under either definition, it is a horrific set of circumstances that has occurred in that region. Yet the response to date has still not been effective. People are continuing to be killed and slaughtered and run out of their villages, and the African Union troops have not succeeded in securing peace in that region. I want to update my colleagues about what is taking place.

The mandate of the African Union troops—and this is the African countries that have formed the African Union force—is simply to monitor and report on the current cease-fire. That is insufficient. I am going to detail why it is insufficient and what has happened because of their insufficient mandate and rules of engagement not being appropriate for the circumstances.

To date, they have largely written and filed away reports. Without a mandate robust enough to protect the civilians or prevent violence or assistance robust enough to provide a well-sized and equipped force, there is not much hope for the people seeking safety in Darfur.

A few weeks ago, the African Union came out with their strongest statement regarding the violence. This was a clear call for the international community to shine the spotlight on this crisis and to realize the implications it will have on the entire region.

While the parties are engaged in the sixth round of peace talks—and that is progress; we do have peace talks engaged in by the people in Darfur, the Government in Sudan, the jingaweit militia that has been given equipment by the Government in Sudan—violence continues to take place even as these peace talks move forward.

In the last few weeks, attacks have been carried out by the jingaweit militia, the Government forces, and the rebel movement—all three. The African Union announced:

> You would recall that in the past one month, we witnessed a series of violations in Darfur, with widespread violence against villages, commercial and humanitarian conveys, and even IDP camps.

These are camps where individual citizens are going to get away from the raids and carnage.

> This rendered the work of the humanitarian agencies and NGOs in the area difficult and, in some cases, they were forced to suspend their activities.

There was an unprecedented move against IDP camps and the first reports of the Government of Sudan's use of helicopters since January. A number of coordinated attacks has been reported since mid-September involving hundreds of jingaweit militia—this is the militia armed by the Government of Sudan—and Government forces working together killing and injuring many and displacing thousands more. Just this week, a number of civilians were killed in fighting that took place in the town of Kutum after a rebel and Government force clashed.

The African Union articulates:

> A clearly premeditated and well rehearsed combined operation was carried out by the Government of Sudan military and police at approximately 11 a.m. in the town of Tawilla and its IDP camps in North Darfur. The Government of Sudan forces used approximately 41 trucks, 7 land cruisers in the operation which resulted in a number of deaths, massive displacement of civilians and the destruction of several houses in the surrounding areas, as well as some tents in the IDP camp.

In addition to these violations, there are reports that the Government of Sudan has painted their military trucks in the African Union colors, making it extremely difficult for civilians to distinguish between monitors or attackers. All parties have violated the cease-fire agreement on several occasions since it was established in 2004. Conditions for humanitarian organizations remain extremely difficult. This week, the United Nations announced its plan to withdraw all nonessential staff from Darfur.

In addition to an upsurge in violence by the Government and the government-backed jingaweit militia, I am very troubled by the recent violence aimed at the African Union by rebel groups. In particular, the recent kidnappings and killings of African Union troops should be strongly condemned and swift justice should be brought to the perpetrators of these crimes. The African Union has called for these events to be brought to the attention of the Security Council in their communique of October 10 of this year.

The New York Times reported yesterday that some of the once-government-backed militia groups are fracturing and targeting government-run entities, such as police stations. Infighting amongst the rebels is another common hurdle to achieving peace. This is the chaos that has plagued Darfur.

Ambassador John Bolton's recent decision to block the UN Envoy on Genocide from testifying before the Security Council has undoubtedly raised some eyebrows. However, if he means what he says—that actions speak louder than words—then I urge the Congress, the administration, the United Nations, and the international community to do something. I applaud Ambassador Bolton's recognition of the fact that the current arms embargo is not adequate, it must be expanded, and there must be compliance.

I urge my colleagues to consider these recent events and to redouble our efforts to bring an end to the genocide that is happening as I speak. I urge my colleagues and the chairman of the

Foreign Relations Committee to quickly report out the Darfur Peace and Accountability Act. I have not spoken directly to it, but I will speak about getting this act passed. We need to get it put into law.

This legislation increases pressure on Khartoum, provides greater support for the African Union mission in Darfur to help protect civilians and impose sanctions on individuals who are responsible for the atrocities, and encourages the appointment of a U.S. special envoy to help advance a comprehensive peace process for Darfur and all of Sudan. It also calls for the United States to push for a strong Security Council resolution, amongst other things, that expands the arms embargo.

We can no longer remain indifferent to the suffering Africans of Darfur. We must move beyond the politics and agree on the fundamentals that will help save lives immediately. It is quite simple. When the ''never'' is removed from ''never again,'' it will happen—again and again and again. We cannot be silent and inactive on Darfur as people die.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

CONGRATULATING THE PEOPLE OF IRAQ

Mr. ALLARD. Mr. President, I rise to congratulate the people of Iraq on writing another chapter in the history of their nation. After the coalition forces toppled Saddam's oppressive regime, many believed it would take years until the Iraqis would be in control of their government apparatus. They were wrong. On June 28, 2004, the transfer of power took place and Iraqis became the rulers of their nation. On January 20, 2005, millions of people, including women, risked their lives to choose the members of a temporary Parliament responsible for drafting the new constitution. This past weekend, millions of Iraqis lined up to cast their ballots in more than 6,000 polling places across Iraq.

The Iraqi people's vision of a free and stable Iraq led them to an important milestone—voting on a democratic Iraqi-written constitution. Last weekend, through will and determination, more than 60 percent of the eligible voters in Iraq chose to speak up against tyranny and oppression—a higher percentage of voter turnout than in the 2004 U.S. Presidential election.

What we saw in Iraq on October 15, 2005, proved that even those oppressed for decades will peacefully choose their own future when given a chance to participate in a fair and open electoral process.

There had been much speculation that a majority of Sunnis would boycott the referendum. However, until the last few days before the vote, leaders of the Shi'a and the Kurds worked relentlessly to convince their Sunni countrymen and women to vote either for or against the constitution. Their work came to fruition when millions of Sunnis lined up to cast their ballots and decide the future of their country.

While many Sunnis voted against the proposed constitution, the referendum sent a clear message that all Iraqis are willing to invest in the democratic process.

By casting their ballots, millions of Iraqis also sent a strong message against terrorism. Ideology of hate has no place in the world, no place in Islam, and most certainly no place in Iraq. Terrorists' tactics of striking innocent men and women and children are despicable and cowardly. Terror has not derailed the political process, nor the establishment of the rule of law. Despite fears of retaliation by al-Qaida and other terrorists, millions of Iraqis chose to participate in the process that will decide the future of their nation.

The Iraqi security forces have also started to make a significant difference. According to our military leaders and officials on the ground, the Iraqi security forces were clearly in the lead in securing polling sites around the country. Backed by the coalition forces, the Iraqi military presence was increased by 35 percent since January. Press reports indicated that scattered instances of violence were quickly suppressed by the Iraqis.

This accomplishment indicates the willingness of the Iraqi security forces to stand up to insurgents and protect their fellow countrymen. With each Iraqi soldier trained and equipped to carry out the mission, Iraq draws closer to be able to stand on its own and protect Iraq's freedom.

As they have learned the power of the ballot box, Iraqis will soon be experiencing the strength of the rule of law during the trial of Saddam Hussein that convenes today. Only a couple thousand years ago, thousands of Iraqis—including women and children—were killed, tortured, and wrongfully imprisoned. Nevertheless, the current Iraqi Government fully understands the importance of a fair trial and the precedents it will establish. As a result of these advancements in Iraq, the country's most brutal dictator will face trial by a jury of his peers, a trial that thousands of Saddam's victims never received. The world will pay close attention as the Iraqi judicial system moves forward with this challenge. I am confident the Iraqis will adhere to the highest standard of the rule of law to reach a proper conclusion.

Today, the successful referendum in Iraq would not have been possible without our brave men and women in uniform who were called by our Nation's leaders to perform a noble but difficult task. Their commitment and dedication to peace and prosperity around the globe has never been more evident. Nearly 150,000 soldiers, sailors, airmen, and marines are deployed in Iraq, doing their duty with pride, patriotism, and perseverance. Our success in Iraq and Afghanistan has not come without cost. Those who have fallen have served a cause greater than themselves and deserve a very special honor. My heart goes out to the families whose sons and daughters have made the ultimate sacrifice.

The people of Iraq have clearly spoken of their desire for a free and democratic Iraq. The terrorists understand that their only chance is to break the will of the American people and force us to retreat. We will not waver in our support of the Iraqi people. We will not waver in our support of the democratic process and the rule of law. And we will not waver in our cause for freedom in a land that has known nothing but oppression. The lessons learned in previous world conflicts have proven that when the stakes are so high, we must remain firm, resist the enemy, and fight until the war is won.

Mr. President, our Nation has a leader who has made it clear that winning the war on terror is a defining moment for the civilized world. Since September 11, 2001, President Bush has taken bold steps to ensure the safety and the security of the United States, especially against terrorist organizations and the nation states that support them.

Specifically, since President Bush has taken office, the United States, under his leadership, has—and I would like to list a number of successes against terrorist organizations—overtaken two terrorist regimes, rescued two nations and liberated some 50 million people; captured or killed close to two-thirds of known senior al-Qaida operatives; captured or killed 45 of the 55 most wanted in Iraq, including Iraq's deposed dictator, Saddam Hussein; hunted down thousands of terrorists and regime remnants in Afghanistan and Iraq; disrupted terrorist cells on most continents and likely prevented a number of planned attacks.

This is an astounding record of accomplishment for our Commander in Chief, his national security staff, and the phenomenal men and women of our military services. The United States went to war in Afghanistan and Iraq, risking significant loss of life and treasure to protect our way of life. Our goals are clear and twofold: Destroy the nexus of terrorism and weapons of mass destruction that personified the two ousted regimes and create in their stead stable, democratic states able to participate in the modern world today. And we see the results of that successful effort in both Afghanistan and Iraq. We succeeded in our first goal, having killed or captured perpetrators and supporters of the enemy terrorists.

As I discussed previously, the courageous people of Afghanistan and Iraq are making remarkable progress toward adoption of constitutional reforms to secure momentum for a lasting democratic independence. Our Commander in Chief deserves recognition for these achievements. America

is safer because he took action, and the world will be a better place when the foes of freedom are defeated. We must stay the course and follow through with determination and perseverance. We must turn to those who doubt our mission and speak of the tremendous courage being shown by the Iraqi and Afghan people who are just beginning to enjoy the fruits of freedom. We must constantly thank our men and women in our Armed Forces who have so valiantly served our Nation, and we must remind ourselves that the global war on terrorism is not about religion or ethnicity; it is about freedom and whether we will allow others to dictate our freedom. We must not give in to the ideology of terror, and we must remain committed to those who need our assistance so much.

As we review the history of Saddam Hussein as he begins standing trial today, I view with optimism the ability of the Iraqi people to conduct a fair and just trial. They face a history of continued inhumane actions by a ruthless dictator in Saddam Hussein for thousands upon thousands of people who were massacred and killed for no real, apparent reason other than the fact that they disagreed with Saddam, who was the ruthless dictator in charge.

History takes us back many years. Saddam came into power a number of decades ago, and during that time we saw a record number of injustices that occurred to the Iraqi people. We saw, in 1980, the persecution of the Faylee Kurds. We saw, in 1983, the Kurdish massacres targeted against Barzanis and the KDP. In 1988, we saw the Anfal campaign. As many as 182,000 people disappeared during this time period.

In 1988, we saw in Halabja the Saddam regime launched chemical attacks against more than 40 of its own villagers. On March 16, 1988, the regime dropped sarin and VX on the town of Halabja, killing more than 5,000 people and injuring thousands more. Many of the survivors suffered long-term medical complications, and thousands died. There have been significant instances of birth defects in children born to parents of Halabja, and many are still suffering from the effects of the attack.

In 1991, during the Shi'a uprising in the south, the regime brutally massacred tens of thousands of soldiers and civilians. Also in 1991, once Kurdish autonomy was declared, many Kurds living below the green line were massacred, leaving mass gravesites in the Kirkuk region. In 1991, with an uprising in Najaf, we saw again the demonstrated brutality of this regime. As it put down the uprising, many of the perpetrators were rounded up, were arrested, and many of the participants who were placed in jails were tortured.

The Marsh Arabs, whose people had lived for thousands of years in the longstanding Marsh Arab area, were forced to leave the land after it was no longer cultivable and habitable because the regime decided to divert their waters to other sources.

All Iraqis who opposed or questioned the leadership of Saddam Hussein, whether Shi'a, Sunni, Christian, Kurd, Turkoman, or other, were systematically intimidated, tortured, and executed during the regime.

We are now in a new chapter of the trial of Saddam Hussein. Many of these atrocities will come to light. As I mentioned earlier, I have a lot of faith in the Iraqi people, that they will conduct the trial in a responsible way following international law and also, in some instances, applying their local law.

The credit for freeing the Iraqi people I think goes to the men and women in the Armed Forces, it goes to the American people who have shown perseverance through this period of time, and also to our President, our great leader, who has demonstrated strong leadership not only in America but across the world in this fight for freedom. The real beneficiaries are going to be the Iraqi and the Afghani people.

I, along with many other Americans, will be watching as the trial runs its course. This is not going to be an American trial or any kind of world trial, although international procedures will be followed. But it will be a trial that will reflect the freedoms of the Iraqi people and reflect their form of justice.

I wish the Iraqi people well. I commend our President for a job very well done. Again, I want to recognize the sacrifice and commitment of our men and women in the military who have been so brave and forthright, and have done overall a great job in representing America on the battlefield in their fight for freedom.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, parliamentary inquiry: My understanding is the time at this point had been reserved for statements regarding the elections in Iraq. Am I correct? What is the time remaining?

The PRESIDING OFFICER. Morning business time has now expired.

Mr. WARNER. I ask unanimous consent the time be extended for a period not to exceed 10 minutes.

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

Mr. WARNER. Mr. President, my distinguished colleague from Colorado has spoken very eloquently with regard to the elections in Iraq. I would like to add a few thoughts of my own, for it was truly a momentous event in the sense that a nation which had not had any government since 1920 was given the opportunity to begin its course toward joining the nations of the free world to have some form of democracy of their own choosing—and I underline that: Of their own choosing. They thereby take a place in the world with a responsibility for securing the basic freedoms people worldwide desire.

On Saturday, October 15, 2005, the Iraqi people, once again, following their historic election in January of this year, took another significant step forward in Iraq. We saw millions of Iraqis indicate their willingness to embrace the democratic process by virtue of their voting. There was a strong turnout nationwide, a significantly higher turnout than we anticipated in certain areas. This turnout, particularly in the Sunni regions, is more remarkable because it was often in the face of insurgent intimidation.

We all observed three important signs of Iraqi progress in the events of October 15th. First, the electoral process proceeded as planned. Insurgent efforts to disrupt the elections that were attempted throughout the summer and right up to the elections simply did not succeed.

Second, Iraqi Government's outreach to Sunni leaders during the constitutional drafting process is having an effect. Prime Minister al-Jafari said, ''The victory for Iraq is that Iraqis are voting.''

Third, the Iraqi security forces provided protection to more than 6,000 polling sites. I cannot overstate the importance of that. The United States, together with its coalition partners, worked hard for some 2 years now to establish a military and a police force. I would say, having followed this very carefully in the Armed Services Committee, that significant progress has been made in the last 120 days. We have established criteria to assess the quality and the professional level attained by these individuals, and how best to integrate them in the overall security framework needed to preserve and protect the Iraqi people and preserve their sovereignty. Real progress has been made. The voting day was an example of how they perform. At the polling sites, security was primarily the responsibility of either the Iraqi police or the national forces. It was clear and visible that the Iraqis took the lead in this effort. No security incident appeared to affect voting. The level of security breaches was far below the high of some 300 breaches during the January election of this year. I believe there was less than 20 incidents total that tried to disrupt the election, but all failed to affect the casting of votes at these polling places.

We have no confirmed figures on the results yet. We, the world, await the outcome. Newspapers throughout the world carry reports of the importance of the election and saluting those who made it possible—not just the security forces but also the United Nations and other international organizations which came in and supervised this historic day. Basically the streets were calm. In some places there were mild celebrations.

Last month, for example, in Tall Afar in northern Iraq, coalition and Iraqi forces were engaged with insurgents for control of that city—a bitter battle. It is interesting that on Saturday the Independent Election Committee of Iraq estimated that 80 percent of the registered voters in that community

voted. Therefore we must praise the efforts of the Iraqis, the U.S. civilian and military personnel, all those of our coalition partners and those of international organizations for planning and executing an electoral referendum in such a challenging environment. The United Nations chief electoral adviser in Iraq said:

The process has gone so smoothly and well, from a technical point of view.

The Vice Chairman of the International Mission for Iraqi Elections, a coalition of electoral monitoring bodies, praised the referendum for its legal framework, planning, and logistics. Now the world will await the final result, due hopefully later this week. The Independent Electoral Commission in Iraq is supervising this process and will announce an official tally after votes are counted at a central location overseen by the United Nations election advisory team to ensure that international standards are being met.

There are, no doubt, difficult days remaining ahead. Generals Abizaid and Casey told the Congress, the American people, and indeed the whole world, just that in appearances throughout the United States last month. Both men were confident that we are moving in the right direction. We saw that progress this Saturday and we salute them for their leadership and their participation and their responsibility in achieving the results that came about on Saturday.

If the constitution is ratified, Iraqis will vote again on December 15. This time they will vote for a permanent government to take office on December 31. That leaves 60 days, basically, between now and December 15. It will be a very unusual period in the history of Iraq, in that many of those in this current government, the interim government, will be seeking office in that election. So we have to exercise a degree of patience as we watch them, as they pursue their political campaigns at the same time they have official duties to maintain a government and serve the needs of the people of Iraq—whether it is the power, whether it is the water, whether it is the security. All of those things must be maintained during this interregnum until the election takes place.

Then, following December 15 there is basically a 60-day period as established under the law that they have adopted. There is a 60-day period in which that government must replace the existing one and take the reins of authority and govern Iraq for a period of 4 years—truly a permanent government.

As this political situation matures, so too will the Iraqi security forces, and I am confident we will see a continued strong pace to obtain the needed numbers of trained police, border security, internal security, national guard, and a standing army to provide that nation with protection for its sovereignty and internal protection from the insurgents. With an Iraqi permanent government in place and steady progress in these security forces, I see—and I want to say with great caution—an opportunity, following the first of the year, to begin to review our present force structure and to consider such options as will hopefully be available to lessen the size of our overall troop presence.

Watching Iraqis vote, we as Americans should be especially proud of the contributions of those men and women who proudly wear the uniform of the United States. When I speak with them in Iraq, as I did weeks go on my sixth trip, and in Afghanistan, they know the importance of what they are doing.

I would like to underline that. Individually, they know and understand the importance of the mission which they, as members of the all-volunteer force of our military, have undertaken. Together with the commitments in support of their families back home, they are performing brilliantly in Iraq, Afghanistan, and all across the world, protecting the security of this Nation and the security of our principal allies.

We will continue to demand from these people as we always have, but they are like generations before them, answering a call to duty to defend the values and freedoms we cherish. We wish them well. We wish the blessings of the Almighty on them and their families. We have taken heavy casualties in this conflict, both in terms of lost lives and wounded. Not a day goes by that those who are privileged to serve in this Chamber do not have that foremost in their minds, as do most Americans.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Journal clerk proceeded to call the roll.

Mr. BOND. 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.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

TRANSPORTATION, TREASURY, HOUSING AND URBAN DEVELOPMENT, THE JUDICIARY, THE DISTRICT OF COLUMBIA, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 2006

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 3058, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3058) making appropriations for the Department of Transportation, Treasury, and Housing and Urban Development, the Judiciary, the District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes.

Pending:

Kennedy modified amendment No. 2063, to provide for an increase in the Federal minimum wage.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I thank the Chair. I note that my partner and comanager of the bill, the Senator from Washington, and I are here and ready to do business. We were ready to do business yesterday. We had one rollcall vote. There were more than 40 amendments filed yesterday. I know there are many others who have or are thinking about amendments. But we have enough work to do now if Members will come forward and offer their amendments that are filed or talk with us to see if they can be accepted.

We would like very much to move forward on this bill today, and perhaps complete work on it by 8 o'clock tonight when the baseball game is on television. But hope springs eternal. We would love to see Members come forward. I think more are ready to go.

Mr. President, I ask unanimous consent that the pending amendment be set aside.

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

AMENDMENT NO. 2113

Mr. BOND. 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 Missouri [Mr. BOND] proposes an amendment numbered 2113.

Mr. BOND. 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: Limits the availability of funds under this Act for use in paying for eminent domain activities)

Insert the following on page 348, after line 5, and renumber accordingly:

''SEC. 321. No funds in this Act may be used to support any federal, state, or local projects that seek to use the power of eminent domain, unless eminent domain is employed only for a public use: Provided, That for purposes of this section, public use shall not be construed to include economic development that primarily benefits private entities: Provided further, That any use of funds for mass transit, railroad, airport, seaport or highway projects as well as utility projects which benefit or serve the general public (including energy-related, communication-related, water-related and wastewater-related infrastructure), other structures designated for use by the general public or which have other common-carrier or public-utility functions that serve the general public and are subject to regulation and oversight by the government, and projects for the removal of blight (including areas identified by units of local government for recovery from natural disasters) or brownfields as defined in the Small Business Liability Relief and Brownfields Revitalization Act (Pub. Law 107–118) shall be considered a public use for purposes of eminent domain: Provided further, That the Government Accountability

Office, in consultation with the National Academy for Public Administration, organizations representing state and local governments, and property rights organizations, shall conduct a study to be submitted to the Congress within 12 months of the enactment of this Act on the nationwide use of eminent domain, including the procedures used and the results accomplished on a state-by-state basis as well as the impact on individual property owners and on the affected communities.''.

Mr. BOND. Mr. President, there has been much discussion with many Members who are interested in this. I am filing it now, and I will ask unanimous consent that others who wish to be added as original cosponsors add their names. But I wanted to get it here on the floor so everybody could have a chance to look at it. We will shortly set it aside because I think we are perhaps ready to go forward with the minimum wage amendments.

At this point, permit me to explain what the amendment is about.

This amendment is in response to the U.S. Supreme Court case, Kelo, et al. v. City of New London, et al., in which the Court upheld by a 5-to-4 majority decision the use of eminent domain by the city of New London, CT. The Court noted that New London utilized a comprehensive plan that seeks to revitalize the city by using the land occupied by some 115 privately owned properties as well as 32 acres of land formally occupied by a naval facility to accommodate a $300 million Pfizer research facility, a waterfront conference hotel, a ''small urban village,'' as well as 80 new residences. The opinion seems to rely on ''affording legislatures broad latitude in determining what public needs justify the use of the takings power.''

The opinion also notes that nothing precludes any State from placing further restrictions on its exercise of the takings power.

As discussed by the four-Justice dissenting opinion, this majority opinion goes much farther than the facts of the case and would essentially allow the use of eminent domain in virtually any circumstance where the locality believes some benefit could be derived.

In particular, the four-Justice dissenting opinion concludes that ''under the banner of economic development, all private property is now vulnerable to being taken and transferred to another private owner so long as it might be upgraded—i.e., given to a owner who will use it in a way that the legislature deems more beneficial to the public—in the process.''

There are a number of problems that have already been raised in the eminent domain field. I say none are more striking than the proposal by a developer to condemn the land on which the home of one of the Justices in the majority opinion sits to put a new hotel and the Lost Freedom Bar on his property.

In my State of Missouri, we have seen the use of eminent domain for a private purpose having tremendously harmful impacts in the Sunset Hills community in St. Louis County. Eminent domain was used by a private developer to condemn a large number of homes, forcing the residents out of their homes. The residents, in expectation of being forced out of their homes, purchased other houses. They began to move into other houses. The private developer went broke. Now these people are stuck with two mortgages, and the place they left is being declared a blighted area because everybody has left.

This has had a double impact, not only on the homeowners who were forced to take out a second mortgage but on a community which now is blighted, and some enterprising developers are seeking tax subsidies and other help to renovate a blighted property.

I believe most of us—and certainly the people I listen to in my home State of Missouri—believe this is absolutely wrong.

When you look at the New London case, you see how a tragic result can occur under the Kelo decision if legislatures do not act. The Governor of Missouri has called for a task force to study eminent domain.

I believe we have responsibility here to make sure that Federal funds are not used in the taking of property for a private use and utilizing Federal funds to bolster that effort.

In the Kelo case, the dissenting opinion notes that the petitioners are nine resident or investment owners of 15 homes in one of the neighborhoods subject to eminent domain. One of the petitioners lived in the house that has been in her family for over 100 years. She was born in the house in 1918. Her husband has lived there since their marriage in 1946, and their petitioner son lives next door with his family. Moreover, the record makes no claim that these are anything but well-maintained houses that do not pose any source of social harm, unlike the circumstances of several earlier cases cited in the majority opinion.

The opinion warns that despite the majority opinion's reliance on the city's comprehensive plan, there is nothing in the majority opinion that prohibits property transfers generated with less care, that are less comprehensive, that happen to result from a less elaborate process, where the only projected advantage is the incidence of higher taxes or the hope to transform an already prosperous city into an even more prosperous one.

Despite my misgivings about the Kelo case and its implications, this amendment today is very narrow and merely limits the availability of Federal funds from within this act for the year for which it is applicable for use in funding eminent domain activities. The key issue in this amendment is that these funds should not be used to provide Federal support for eminent domain activities that primarily benefit private entities. The amendment recognizes the importance of supporting eminent domain activities in support of transportation projects, utility projects, and projects to remedy blight. Funds may still be used from the Federal sources in this act for these projects.

Moreover, the amendment requires the GAO to conduct a study that analyzes the use of eminent domain throughout the Nation, as well as the results accomplished by these uses of eminent domain.

I know some of my colleagues are proposing significant substantive authorizing legislation which would have a much broader band. This objective is worthwhile. I hope to join them at a later stage. This is just a starting step. It is a starting point to make sure eminent domain for private purposes is not funded in the coming year from funds from the Transportation, Treasury, the Judiciary, Housing and Urban Development, and related agencies bill.

I hope my colleagues will join me in support of this amendment. It establishes a very important principle. I hope to have a very solid vote for this amendment when it comes to the Senate.

I yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, I thank the chairman for offering this amendment. The Kelo v. New London decision by the Supreme Court came as a great shock to many. The amendment being offered seeks to impose some meaningful limitations on the potential use of eminent domain with the funds provided in this act. I emphasize this provision is limited to the funds in this act and does not seek to overturn the Kelo decision. It merely ensures that funds appropriated for 2006 for the Department of Transportation and Housing are not to use eminent domain for projects that primarily benefit private interests.

I urge my colleagues to support this amendment. I thank the chairman of the committee for offering this critical amendment at this time.

I yield the floor.

Mr. BOND. Mr. President, I thank my friend, the Senator from Washington. There are other amendments that are going to be offered, and at the appropriate time I will ask this be set aside so further amendments can be offered.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

AMENDMENT NO. 2078

Mr. DORGAN. Mr. President, I intend to offer two amendments to this legislation. I take a moment now to offer the first of those amendments. While I do that, I thank my colleague from Missouri and my colleague from the State of Washington for their work on this piece of legislation. This is an appropriations subcommittee bill on which they have done an excellent job. I appreciate that.

I will offer an amendment at the completion of my comments. The amendment deals with the issue of contracting, particularly contracting in Iraq, and also now contracting in this country for reconstruction of the Gulf States that were hit so hard by Hurricane Katrina and then Rita. I will talk about the reason I am offering this and point out I have offered it previously, and I lost in the vote that was conducted in the Senate. However, I have previously indicated I do not intend to be discouraged by losing a vote. I will ask the Congress to reconsider by having another vote, and I will do it again following this if I am not successful.

Let me describe the circumstances that bring me to the conclusion we need a special committee of the type that Harry S. Truman led when he was a Senator. Incidentally, he was a Democrat Senator who had the Senate establish what was called the Truman Committee to investigate waste, fraud, and abuse in defense spending back in the middle of what became World War II, the middle of the Second World War. With a Democrat President, a Democrat Senator was doing investigative hearings about waste, fraud, and abuse with respect to spending in the area of defense. He uncovered billions and billions and billions of dollars of waste. Good for him. I am sure it was not pleasant for the White House because Senator Truman was a member of the party of the President at that point. Nonetheless, he did what he believed was important and right for this country. It was very important to have done.

These days we have something happening with respect to the country of Iraq. We have a war in Iraq. We also have reconstruction programs for the country of Iraq paid for by the American taxpayers. We have contracts that are sole-source, no-bid contracts given to some very large corporations. We have tales of horror about the waste of the taxpayers' money, and nobody seems to care very much.

We also now have similar tales with respect to contracting—again, no-bid, sole-source contracting—with respect to the reconstruction and the response to Hurricane Katrina and Rita.

Let me describe just a few of these, if I might. First, let me talk about contracting in Iraq. We have a substantial amount of contracting in Iraq, no-bid contracts, that are worth billions of dollars. I have held six or seven hearings on this subject. It ranges from the small, a fellow holding up a towel, a hand towel, because he worked for Halliburton Corporation, which was suppose to buy towels for our troops in Iraq. He holds up a hand towel and says: I was the purchasing agent and was supposed to buy towels for the troops. But the company wanted their logo imprinted on the towels, which nearly doubled the price.

So the American taxpayer paid twice the price, or nearly twice the price, for these towels because the company wanted the logo on the towel.

He said they were paying $7,500 a month lease on SUVs in Iraq; $85,000 brand new trucks were left by the side of the road because they had a flat tire and torched; $85,000 trucks discontinued to be used and left by the side of the road because they had a plugged fuel pump, and therefore torched. These purchasing agents were told it didn't matter, these are cost-plus contracts. It does not matter that money is wasted, they could spend what they wanted to spend. They were told the good old American taxpayer will pick up the tab.

We had a man named Rory in charge of food service, a supervisor at a food service area in Iraq. Rory described what his instructions were from Halliburton. His instructions were: If a government auditor comes by, you get out of there. You refuse to talk to a government auditor. If you talk to an auditor that comes by to try to evaluate what is going on, one of two things will happen to you. You will either be fired, or you will be moved to an area in Iraq that is under active hostile action. Those are your choices.

Rory decided to tell what was going on. He said they were feeding soldiers who did not exist. We have read the headlines, charging for 42,000 soldiers to be fed every day; 42,000 meals, three times a day. It turns out there are only 14,000 soldiers. A big error? Maybe. Rory says it was happening in his area, about 4,000 or 5,000 soldiers in his area. He said: By the way, we had expired food. The date stamp had long since expired, and we were told by the supervisors, it does not matter, just feed the food to the troops. Convoys come through in hostile action, with lead in the meat and lead in the food in the back of the truck, and they were told to separate out the lead from the food, and by the way, for the bullets, give them to the supervisors as souvenirs and feed the food to the troops.

That is on the record from a guy who worked there, came back to the country, and became a whistleblower. He says here is what is going on. We are being stolen blind.

Let me show a picture of another fellow who testified at a hearing I held. Incidentally, I am doing the hearings not because I enjoy holding hearings. We are holding hearings because there is no oversight in the Congress. My intention is not to embarrass anybody but to represent the taxpayer.

This represents hundred-dollar bills wrapped in Saran Wrap. This fellow testified at a hearing I held. He said: In our area, we wrapped up hundred-dollar bills like this in Saran Wrap and told contractors—this is contracting in Iraq—bring a bag because we pay in cash. If we owe you some money, bring a bag, we pay in cash. He said they actually played football in this office by passing back and forth these batches of hundred-dollar bills wrapped in Saran Wrap. He said it was like the Old West. Just bring a bag; if we owe you money, we fill it with cash.

When we hear these stories—and we pass emergency legislation for nearly $20 billion for reconstruction of Iraq; we spend $4 billion, $5 billion, or $6 billion a month now in Iraq and Afghanistan—we push a massive amount of money out there with some of it, a fair amount of it, going, particularly in the reconstruction, to no-bid contracts, to big companies, and then we hear stories such as, OK, here is the task: We will put air conditioning in this building. So the big company gets money for air conditioning, subcontracts it, the subcontractor contracts it, and when the work is all done you have ceiling fans—and we paid for air conditioners. Who cares? Who is watching over this massive amount of waste, fraud, and abuse? I will not go through it all, but it is unbelievable what is going on. Nobody seems to care.

What is happening with respect to reconstruction down in the gulf as a result of Hurricane Katrina and Rita? We hear people talking about $200 billion. This Congress has appropriated slightly more than $60 billion already. We have seen, once again, some of the same companies performing no-bid contracts in Iraq now with no-bid contracts in the gulf.

First, we start with waste, fraud, and abuse with FEMA, an organization that used to be something really special. I remember when my colleague, Fritz Hollings, sat in the chair behind me. Fritz Hollings, back in another era, said: We had two natural disasters down in our part of the country. The first disaster was a hurricane; the second disaster was FEMA.

But then FEMA changed. All of a sudden James Lee Witt came in from a background that was unusual. The guy had experience. He came from a background of disaster preparedness, disaster emergency services. And all of a sudden, FEMA became something very special.

I know that because my State had a community of 50,000 in the flood of 1997 in Grand Forks, ND, that required the evacuation of almost an entire city. It was a massive evacuation and flood response. Guess who was there at the lead. FEMA. Everybody there would say: What a remarkable organization. It worked. It knew what it was doing. It was sharp, on the ball, had plans, and it made things happen.

Now what has happened to FEMA? Let me describe it. I will not go into great length about FEMA because everybody knows some of the top positions of FEMA were filled with cronies who had no experience at all in disaster preparedness or emergency services and that then it was subsumed into the Homeland Security Department. I do not need to go into great length about that.

As shown in this picture, this is a truckdriver. We had a hearing the other day and he testified. This truckdriver, by the way, was contracted for by a company that was doing work for FEMA. He was asked to haul ice. You

can see all these trucks in the picture. There were hundreds of trucks where he was sitting. He was asked to haul ice to the victims of Hurricane Katrina.

He picked up a load of ice with his 18-wheeler in New York, and away he went. They said: We want you to go to Carthage, MO, so he drove his 18-wheel truck, with a refrigerated trailer, to Carthage, MO. He got there, and they said: Well, but now you need to go to Maxwell Air Force Base in Alabama. He said: Well, it would have been good to know that when I left New York. I would have saved about 700 miles. But that was the way it was, so he headed off with his truck to Maxwell Air Force Base, AL.

He got to Alabama with a load of ice, and was parked at the Air Force base with many others, hundreds of other trucks, we are told, that had food, blankets, clothing, ice—all the things the victims of Hurricanes Katrina and Rita were begging for on television. He was sitting there, watching the little television in his truck, hearing the victims of these hurricanes describing what their needs were—and the needs were in the back of these trucks.

He sat there 12 days—12 days—and he finally went up to them and said: What is going on? They said: We have changed our mind. We want you to drive your truck with ice to Idaho. He said: I didn't know there was a hurricane in Idaho, and I don't intend to haul this ice to Idaho. They said to him: You have a bad attitude. We are thinking of having the National Guard escort you off this base.

It cannot be funny because it is so unbelievably inept. But about 2 hours after they told him that, they said: OK, we have changed our mind; you won't go to Idaho. You haul this ice to Massachusetts. This is like that television program, ''Where in the World is Carmen San Diego?'' If I had a map, I would show you where these ice cubes went. To help the victims of the hurricane, directed apparently by FEMA and its contractor, they went from New York City, to Carthage, MO, to Maxwell Air Force Base, AL, to storage, now being paid for by the U.S. Government, in Massachusetts.

We paid $15,000 for this one truck to haul ice cubes between New York and Massachusetts—destined for victims of the hurricane. What unbelievable—unbelievable—ineptness by a Federal agency. This truckdriver could have run FEMA better than that.

When he testified, he said: It would have been easy. All they would have had to have is some sort of transportation system by which everybody calls in there and then you are directed. No such thing.

He finally said to them, as he sat 12 days on the base before they sent him to Massachusetts with his ice cubes: I'll tell you what I'll do; I will pay for the ice cubes in my truck. I will pay you $1,500. They said: What are you going to do with them? He said: I'm going to haul them to Biloxi, MS, and give them away to victims who want them. They said: Who is going to sign for them? He said: It shouldn't matter to you. Once I have paid for them, you're out of the picture. They said: We can't do that. You haul them up to Massachusetts. We are going to store them.

I told this story and somebody, the other day, said: Yeah. That's just one trucker. Oh, yeah, don't let the facts get in the way of good theories, right? This is one trucker, but he said there were hundreds of truckers in exactly the same situation.

This was chaotic bungling. And who gets paid for this? Well, I assume the contractor FEMA had who directed these truckers to haul ice cubes from New York to Massachusetts or, incidentally, a trucker who hauls ice cubes from Canada down to Maxwell Air Force Base and back to Canada. What unbelievable waste.

So now here is the second piece of all of this and why there needs to be investigations. This is a dormitory, by the way, as shown in this picture. It does not look much like a dormitory. It looks like a bunch of two-by-fours with blankets on top. This picture was taken last Saturday in Louisiana.

These people are not from Louisiana. These people were brought in to replace some people from Louisiana who had jobs—qualified electricians who had jobs—to begin doing some work under a contract. Those workers from Louisiana are displaced now by workers, most of whom, incidentally, are expected to be undocumented workers, who will come in and work for a fraction of the wage you would pay the people from Louisiana who need the jobs.

Why? Because Davis-Bacon is waived. What is Davis-Bacon? It is a foreign language to a lot of people, perhaps. The Davis-Bacon provision, in law for some long while, says when you are going to have the Federal Government come in and do contracting work, the Federal Government must pay the prevailing wage. The contractors who work for the Federal Government must pay the prevailing wage. They cannot try and ratchet up a contract for themselves by abusing their workers and deciding to pay them a tenth or a half of what they should be paid. You have to pay the prevailing wage.

Well, the minute that happened in this area, the people who had the jobs these people now have—the people, by the way, who were from Louisiana, skilled electricians, who needed the work in the shadow of Hurricanes Katrina and Rita—lost their jobs. The foreman who was on the jobsite with them was here and talked to me about it. They lost their jobs because they were replaced by these folks: largely undocumented workers willing to work for a fraction of the cost—not from Louisiana. The folks from Louisiana who had those jobs lost them with reconstruction. That is what is happening.

My point is this: There needs to be some investigation. I am not suggesting that it is an investigation to tarnish anybody. It is an investigation to evaluate what on Earth is wrong with the oversight for this waste and fraud and corruption that exists in these contracts.

In the newspaper this morning, in the Style section, there is a picture of a woman named Bunny Greenhouse, who was the highest ranking official in the Corps of Engineers in the U.S. Government working in the Pentagon. She lost her job. What a remarkable woman. She has three masters degrees.

As an aside, I did not know this, but the story says she comes from a dirt-poor background. Her parents were uneducated. Her sister became a professor. Her brother, incidentally, scored 27,000 points in the National Basketball Association, and was rated one of the 50 best basketball players to ever play the game—Elvin Hayes.

Bunny Greenhouse, this woman, rose to become the highest ranking civilian official in the Corps of Engineers. She just lost her job. Do you know why? All of her references, all of her evaluations were outstanding—outstanding. What a terrific person—until she started telling the ''old boys network'': You can't do what you are doing here. You can't give Halliburton big no-bid contracts and even have them sitting in on the meetings about the scope of the work. You cannot do that. It violates all of the rules and procedures. The minute she started interrupting the little playground that exists with these favorite no-bid contracts, all of a sudden she was persona non grata.

You can read the story in this morning's Washington Post. She has been here twice to talk to us on Capitol Hill. Not many seem to care about that. But it is a symptom of something much more than her; it is a symptom of a culture about corruption, about waste, and, yes, fraud. If you wonder whether that is justified, I will be happy to give you, and anyone in the Senate who wants, the written testimony of a good many witnesses who have testified on these very issues.

So my proposition is simple. My proposition is Congress should establish a type of Truman committee. I describe it as a Truman committee because we have done it before—a special committee that takes a hard look at all of this contracting that is going on and tries to shut down the waste, fraud, and abuse the taxpayers in this country should not have to be accepting and this Congress should not allow. This committee would not be necessary if we had aggressive oversight committees.

Let me say that the chairman from Missouri and the ranking member from the State of Washington—this is an appropriations committee. I just described the job they have done. They have done a great job. This amendment has nothing to do with them. They are good appropriators. I am proud of their work. This appropriations subcommittee, is awfully good, and I am

here to support the subcommittee work. So my amendment does not have anything to do with them.

But I would say this: Almost everyone who watches this Congress work understands there is virtually no oversight and no accountability after we do appropriate that money. The American taxpayers deserve better than that. We have had a previous vote, and we had more than a majority of the Members of the Senate say no, they do not want to have anything to do with a special committee to take a look at investigating this waste, fraud, and abuse. I hope others will change their mind. This is not about Democrats and Republicans; it is about protecting the American taxpayers. And it is about making sure we root out the waste, fraud, and abuse that exists in these sole-source contracts. What is happening is almost unbelievable to me. Yet this Senate seems nearly asleep on these issues.

Mr. President, I call up amendment No. 2078 and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment will be set aside. The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN] proposes an amendment numbered 2078.

Mr. DORGAN. 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 printed in the RECORD of Tuesday, October 18, 2005, under ''Text of Amendments.'')

Mr. DORGAN. Mr. President, let me make the point that this amendment differs from one we have considered previously in that the scope of the evaluation and investigation of expenditures and contracting would include not just with respect to Iraq but also the contracting and reconstruction in the gulf in relation to Hurricanes Katrina and Rita damages.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I thank my colleague for bringing this forward. As I mentioned, this is an appropriations bill. It is a very important subject he has raised, but I raise a point of order under rule XVI that this is legislation on an appropriations bill.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, pursuant to rule V, I have offered proper notice to suspend the rules. My expectation would be we would have a vote on suspension of the rules. As the Senator knows, I referenced that in the Senate Journal last evening.

The PRESIDING OFFICER. The motion to suspend is debatable.

The Senator from Missouri.

Mr. BOND. Mr. President, I ask unanimous consent that this measure be set aside so we can work out a time for a vote on the measure.

The PRESIDING OFFICER. Is there objection?

Mr. DORGAN. Mr. President, I, in fact, will agree to a time agreement at some point. I have no intention of extending debate. I do want to make some additional comments at some point when we set up a vote, but I understand there are others who wish to offer an amendment, so I will be happy to allow this to be set aside, after which I will consult with the Senator from Missouri and the Senator from Washington about a time for the vote.

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

Mr. BOND. Mr. President, I thank my colleague. I believe there are some on this side who will want to respond. I hope we can get a tight timeframe because we are going to be very busy this week. We have to finish this measure.

AMENDMENT NO. 2113

Mr. President, now, since it appears we are going to be having some action today, I ask unanimous consent that we bring up the amendment filed this morning, amendment No. 2113. I believe it can be adopted by a voice vote, with Senators who wish to speak on it permitted to speak during time later on today.

The PRESIDING OFFICER. Without objection, the amendment is pending.

Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2113) was agreed to.

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

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BOND. Mr. President, I thank my colleagues and I look forward to action on the bill.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I ask unanimous consent to be added as a cosponsor on the amendment offered by the Senator from Missouri.

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

The Senator from Wyoming is recognized.

AMENDMENT NO. 2115

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. ENZI] proposes an amendment numbered 2115.

Mr. ENZI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with, since copies have been given to both sides.

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

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. ENZI. Mr. President, I rise in opposition to the amendment offered by Senator KENNEDY that would increase the Federal minimum wage. I have offered an amendment myself. Although both of the amendments would raise the minimum wage by the same amount, $1.10 over 18 months, only my amendment recognizes the enormous burden mandates such as this one have on American's small business and works to alleviate that. We probably ought to be in agreement on this since the numbers are the same. All I do is add some things that will offset those burdens that have been placed with the minimum wage.

When Senator KENNEDY offered his original amendment, he referred to its economic effect as ''a drop in the bucket in the national payroll.'' A drop in the bucket in the national payroll? Comments like this are precisely why small business owners across the Nation feel that Washington, DC, politicians do not understand their needs.

We must also bear in mind that these are the people who create jobs, who provide an increasing percentage of employment for all workers, including those with minimum skills. It is usually the small business that takes a person who has minimum skills and trains them to a higher level. Quite often, they train them to a higher level where they even start their own business or they go to work for somebody else, taking the skills from where they are to an even higher level.

A lot of the problem with employment in the United States is that we don't have the people in the right places for the employment. They could be making more at what they are doing if they were in a different place. But sometimes they are not willing to move. They need more training, too. We have provisions for more training.

I would like to mention a little facility we have in Casper, WY, that will train people to work on oil rigs, and placement is 100 percent. The minimum is $16, and depending on what part of it you do, how long you are there, and what other skills you pick up, it goes considerably higher than that.

The mines in Campbell County, WY, are looking for additional employees. There are some requirements. You have to have a clean drug record. You have to be able to pass a drug test because when you are working around heavy equipment, if you don't have all of your capacities, you can hurt people, including yourself. That should not happen. So they do have requirements about having to have drug tests. But if you can pass the drug test, they will train you for the heavy equipment you need to operate in the mine. We are talking $50,000, $60,000, $70,000 without overtime, and then you have the right on both of those to have overtime as well, probably to the extent of whatever you are willing to put in and the law allows. There are some constraints on it since you are handling heavy equipment, but those are also nontraditional jobs.

We had a marvelous hearing in the HELP Committee. We had a person

from New York City. The young lady was talking about the training she had received in nontraditional jobs and the way her wages had increased. Quite frankly, at the present time she makes more than a U.S. Senator. What she is doing is putting rock trim on skyscrapers in New York. But there are some tremendous things out there, if a person gets the opportunity and takes the opportunity to increase their skills. If you are a minimum-skill person, if you are just doing the job and getting by and not learning anything, you are going to get minimum-skill wages.

I mentioned just getting by, just putting in the time. There is a difference. I know when my dad was interviewing people for the shoe business, he sometimes said, after he had interviewed them: That person told me they had 5 years' experience. I asked them a few questions, and what they had is 1 month's experience 60 times because they never learned anything from the first day they were on the job. They didn't have basic skills. He believed in training people and making sure they had, in 5 years, actually 5 years' worth experience. I can guarantee you, after the very first short training time, they never had minimum wage. But it is tied to the skills.

So to suggest that this is a drop in the bucket in the national payroll is a little bit offensive and does not recognize the job that small business is doing at getting people into the workforce and actually training them. It is particularly offensive to employers to suggest that a 41-percent increase in their labor cost, which is what is being proposed at this time, amounts to a drop in the bucket. A 41-percent increase in labor costs forces a small businessperson to face choices such as whether to increase prices, which often is not a choice, or face a potential loss of customers from lack of service or whether to reduce spending on health insurance coverage or other benefits to employees or to terminate employees. These choices are far more significant than a drop in the bucket, particularly if you are the employee who got terminated. It is a 100-percent problem to you.

Apart from its failure to mitigate the cost of this mandate for small businesses, the Kennedy amendment also fails to address the root of the problem for our lowest paid workers. I have touched on that a little bit. Congress, by simply imposing an artificial wage increase, will not meaningfully address the real issues of our lowest paid workers. Regardless of the size of any wage increase Congress might impose, the reality is that yesterday's lowest paid worker, assuming he still has a job, will continue to be tomorrow's lowest paid worker as well. That is not advancement. Advancement on the job and earned wage growth cannot be legislated. We do a disservice to all concerned, most especially the chronic low wage worker, to suggest that a Federal wage mandate is the answer.

What we need to focus on is not an artificially imposed number but on the acquisition and improvement of job and job-related skills. In this context, we should recognize that only 68 percent of the students entering the ninth grade 4 years ago are expected to graduate this year. And for minority students, that hovers right around 50 percent. In addition, we continue to experience a dropout rate of 11 percent per year. These noncompletions and dropout rates and the poor earnings capacities that come with them can't be fixed by a Federal wage policy. We have to get the kids to stay in school, to get the education. We have to make sure the education is relevant and that when they graduate at whatever level, there is a job out there for them and that the job is transportable, that they can take their skills other places in the country, as those areas open up, with a higher wage for those skills, and that they have the knowledge to be able to learn, to continue to advance their skills so that when they move, they get more.

What we want are the best jobs kept in America for the people who live in America. That is an opportunity we have but not with an artificially mandated minimum wage. I would hope that nobody in the United States would work at the minimum wage. I know for a fact that most of the people who start at minimum wage, if they pay attention to their job, are not in minimum wage very long. If they pick up the skills, they get paid for those skills. That is so that they don't go somewhere else and work. But if they don't have the skills, they are lucky to get a job at all. I have people I have hired before who couldn't read. What kind of opportunities do they have if they can't read? We have them in literacy programs. We moved them into GED programs and trained them in something they could do and be proud of, and that is a higher wage.

We must keep this in mind. The phrase ''minimum wage worker'' is an arbitrary designation. A more accurate description and one that should always be at the center of the debate is that we are seeking to address those workers who have few, if any, skills they need to compete for better jobs—that is what we are doing in the United States, competing—and then command higher wages. The effect may be low wages, but the cause is low skills. In short, the problem is not the minimum wage, the problem is minimum skills.

If we are to approach this debate in a constructive and candid way, we need to acknowledge certain basic principles of economics. Wages do not cause sales. Sales are needed to provide revenue to pay wages. Revenue drives wages. Wages can cause productivity, but the productivity has to come first to be able to afford the wages. When we raise the minimum wage, we are raising the price somehow. The people who get the minimum wage have to buy stuff just like everybody else. If the price goes up because a phony minimum wage went in, then their buying ability did not increase at all. How pleased can you be if you get more money and you can't buy anything more? What we are trying to do is set up a system where people will make more true wages and, with the true wages, be able to purchase more than they could before. Some of that is basic need, but we are hoping they all get past the basic need level and can get into the wants and desires as well, that they can be part of the American dream.

Skills, however, operate differently than wages. Skills do create sales, and sales produce revenue. Skills do create productivity. Skills get compensated with higher wages or people find another job. The employee simply goes elsewhere for higher wages. Wage increases without increased sales or higher productivity have to be paid for with higher prices. Higher prices wipe out wage increases. Skills, not artificial wage increases, produce true net gains in income for the individual and for the business. When it increases for the business, it increases their likelihood of keeping their job and getting to advance. The minimum wage should be for all workers what it is for most—a starting point in an individual's lifelong working career, their lifelong learning career. Those who advance in any jobs are the ones who look at it and say: How can I do this better? If they come up with a way to do it better, they will get more compensation. Their business will make more money or they will go start their own business, which is also a dream of mine, to get people to do that. I hold an inventors conference every year. The purpose of that conference is to get people to invent about their surroundings and their jobs and to find some product that they can make in Wyoming and ship around the world. I have found that anybody who has figured out a way to make a living in Wyoming lives in Wyoming. We are a little short on jobs out there. That is why we only have 494,612—that is last week's number—living in Wyoming. We hope to get past that half-million mark, but it does require jobs. The way to get jobs is to have the skills to be able to improve what you do.

The minimum wage should be for workers what it is for most; that is, a starting point in an individual's lifelong working career, their lifelong learning time. Viewed as a starting point, it becomes clear that the focus needs to be less on where an individual begins his or her working career. Instead, more emphasis should be placed on how an individual can best progress. Real wage growth happens every day, and it is not a function of Government mandate. It is the direct result of an individual becoming more skilled and, therefore, more valuable to his or her employer. As a former small business owner, I know that these entry-level jobs are a gateway into the workforce for people without skills or experience.

These minimum-skill jobs can open the door to better jobs and better lives for low-skilled workers because they get more skills if we give them the tools they need to succeed.

We have a great example in Cheyenne, WY, of minimum-skilled workers who were given the tools and the opportunity to reach the American dream. Mr. Jack Price, who is the owner of 8 McDonald's in Wyoming—and we use McDonald's as kind of a derogatory thing with people as being a minimum wage establishment; I assure you that people who start there, who learn something, are not at the minimum wage very long—has had 3 employees who started working at McDonald's at the minimum wage, and those 3 employees now own a total of 20 restaurants. They learned something. They started at minimum wage. They didn't like it, I am sure. They learned. They got experience. They delved into it and found out all they could about the business and wound up owning the business. That is what we want for people. It requires some individual initiative, and it does require starting at the bottom. With almost every job, you have to start at the bottom. If you learn it, you can progress in it. Three employees at McDonald's who started at the minimum wage now own 20 restaurants.

It is a great success story. That is where I would like people to go. This type of wage progression and success should be the norm for workers across the country. However, there are some minimum-skilled workers for whom stagnation at the lower tier wage is a longer term proposition.

The answer for these workers, however, is not to simply raise the lowest wage rung. Rather, these individuals must acquire the training and skills that result in meaningful and lasting wage growth. We must equip our workers with the skills they need to compete in technology-driven global economies.

It is estimated that 60 percent of tomorrow's jobs will require skills that only 20 percent of today's workers possess. Let me say that again. It is estimated that 60 percent of tomorrow's jobs will require skills that only 20 percent of today's workers possess.

Here is another interesting point. It is also estimated that the graduating student will likely change careers some 14 times in their life. There are a lot of people in America whose parents went to work for one company, worked there 30 years and retired. I am talking about a different world. It is estimated that the graduating students will likely change careers some 14 times in their life.

Here is the part that is even more stunning, and I am not talking about changing employers. I am talking about changing careers. Of those 14 careers, 10 of them have not even been invented yet. We don't even know what this change in technology is going to bring about, but we do know that people better be able to change to get those jobs, and they are going to have to change pretty dramatically. It is going to be based on the education they get and then the skills they acquire in the workforce after they get out of school. School is never out; learning is never over.

To support these needs, we do need a system in place that can support a lifetime of education, a lifetime of training and retraining for our workers. The end result will be the attainment of skills that provide meaningful wage growth and competition—successful competition—in the international marketplace.

As legislators, our efforts are better focused on ensuring that the tools and opportunities for training and enhancing skills over a worker's lifetime are available and fully utilized than they are on imposing an artificial wage increase that fails to address the real issues and, in the process, does more harm than good.

Skills and experience, not an artificial Federal wage hike, will lead to lasting wage security for American workers. We have to compete. It is an international competition. Skills count.

As chairman of the Health, Education, Labor, and Pensions Committee, one of my priorities is reauthorizing and improving the Nation's job training system that was created by the Workforce Investment Act. This law will help provide American workers with the skills they need to compete in the global economy. That will lead to real, not artificial, wage increases.

Last year, I was denied a conference committee being appointed to resolve the differences with the House on this important bill by the very people proposing this increase. This year, we reported it out of the HELP Committee by a unanimous voice vote again. It was unanimous coming out of committee 2 years ago, it was unanimous passing the floor of this body, it was unanimous passing out of committee again this year, and it is waiting to come to the floor. I am hoping we can get consent to get it over to a conference committee with the House.

This bill will start an estimated 900,000 people a year on a better career path. You can't tell me that some of the same people who are denied the opportunity in the last Congress now think a magic redetermination of the lowest wage for the lowest skills will change people's lives.

Outside the glare of election year politics, I hope we can quickly pass a job training bill that will truly improve the wages and lives of workers in this country.

Let's be clear about what a minimum wage hike will and will not do. First, we must realize that large increases in the minimum wage will hurt low-income, low-skilled individuals. Mandated hikes in the minimum wage do not cure poverty, and they clearly do not create jobs. The Congressional Budget Office has said:

> Most economists would agree that an increase in the minimum wage rate would cause firms to employ fewer low-wage workers or employ them for fewer hours.

That is a CBO estimate, October 18, 1999.

What every student who has ever taken an economics course knows is if you increase the cost of something—in this case a minimum wage job—you decrease the demand for those jobs. Misleading political rhetoric cannot change the basic principle of supply and demand. The majority of economists continue to affirm the job-killing nature of mandated wage increases. A recent poll concluded that 77 percent—that is nearly 17,000 economists; that is scary, isn't it?—but 77 percent, nearly 17,000 economists believe that a minimum wage hike causes job loss.

We simply cannot assume that a business that employs 50 minimum wage workers before this wage increase is enacted will still employ 50 minimum wage workers afterwards. Whether a business is in Washington or Wyoming, employers cannot absorb an increase in their costs without a corresponding decrease in the number of jobs or benefits they can provide workers. So we know there are losers when we raise the minimum wage, but who are the individuals who will benefit?

Minimum wage earners who support a family solely based on wage are actually few and far between. Fully 85 percent—85 percent—of the minimum wage earners live with their parents, have a working spouse or are living alone without children—85 percent; 41 percent live with a parent or relative; 23 percent are single or are the sole breadwinner in a house with no children; and 21 percent live with another wage earner.

Our research shows that poor targeting and other unintended consequences of the minimum wage make it terribly ineffective at reducing poverty in America, the intended purpose of the policy. In fact, two Stanford University economists concluded that a minimum wage increase is paid for by higher prices that hurt poor families the most.

A 2001 study conducted by Stanford University economists found that only 1 in 4 of the poorest 20 percent of families would benefit from an increase in the minimum wage. The way to improve—truly improve—the wages and salaries of these American workers is through education and training, not an artificial wage increase.

With these realities in mind, I am offering an amendment that recognizes the true cost of a minimum wage increase on American workers and businesses, particularly small businesses. My amendment includes a minimum wage increase of $1.10, which is just like Senator KENNEDY's amendment right now. So we are really not talking about the minimum wage amount.

My amendment addresses other needs for reform and the needs of small businesses that create most of the jobs in this country. That is where the two amendments differ. I have added some things beyond the $1.10 minimum wage increase, and that is to smooth out the bump a little bit for these small businesses that are creating these jobs, that are providing the training, that are helping people get better skills so they can get better jobs.

So my amendment addresses other needs for reform and the needs of small businesses that create most of the jobs in this country. Therefore, my amendment is protective of economic growth and job creation. I think if we had worked this out in committee, probably the other side would have accepted what I am about to do in additional pieces to this bill, and a lot of this discussion would not have been necessary.

Let me briefly review the provisions contained in my amendment. In doing so, we must bear in mind that small businesses continue to be the engine of our economy and the greatest single source of job creation. Any wage increase that is imposed on small businesses poses difficulties for that business, the owner, and his or her employees. I will tell you, in small business, the employees recognize how tenuous their job is. There are not a whole lot of layers that can be laid off before they get to them because there is the owner and a couple of employees. And because there are just a few in the business, they know how the business operates. They know what the dollars coming in are and what the ability is to change that unless they can increase productivity or sales.

Any wage increase that is imposed on small businesses poses difficulties for that employer and his or her employees. My amendment recognizes that reality and provides a necessary measure of relief for those employers. My amendment would make the following changes that are critical, particularly for small business.

First, we would update the small business exemption. Having owned a small business in Wyoming, I can speak from personal experience about how difficult any minimum wage increase is for small business and job growth, particularly for the entry-level people during the first couple of months they are on the job.

Small businesses generate 70 percent of new jobs. Let me say that again. Small businesses generate 70 percent of new jobs. Since a negative impact of a minimum wage increase will affect small business most directly, we have proposed addressing the small business threshold which is set under current law at half a million dollars. If the original small business threshold, which was enacted in the 1960s, were to be adjusted for inflation, it would be over $1.5 million.

The small business threshold was last updated 15 years ago. In those ensuing years, the national minimum wage has been hiked, the economy has undergone dramatic shifts, and the way work is done in this country has changed forever. The pending amendment raises that threshold to $1 million to reflect those changes. It ought to be at $1.5 million. That is what inflation shows. But we are being reasonable. I like to be reasonable on any of the proposals I put forward. So instead of going from a half a million dollars to $1.5 million, this bill only raises it to $1 million to reflect part of those changes.

My amendment also incorporates bipartisan technical corrections that were originally proposed in 1990 by then-Small Business Committee Chairman Dale Bumpers, who used to serve on that side of the aisle when I was first here. It was cosponsored over the years by Senators REID of Nevada, HARKIN, PRYOR, MIKULSKI, BAUCUS, KOHL, and many others.

As those Senators can attest, the Department of Labor disregarded the will of Congress and interpreted the existing small business threshold to have little or no meaning. The Labor Department would make a Federal case out of the most trivial paperwork infraction by the smallest businesses because of what it interpreted as a loophole in the law. Some would say that the 1989 bill to hike the minimum wage and small business threshold was unartfully drafted and permitted this result. Others say the Department is misreading the clear language of the statute.

Regardless, the fact is that a threshold enacted by Congress is not providing the balance and fairness that was intended. This amendment corrects that problem by stating clearly that the wage and overtime provisions of the Fair Labor Standards Act apply to employees working for enterprises engaged in commerce or engaged in the production of goods for commerce. My amendment also applies those wage-and-hour worker safeguards to home work solutions.

The second change: ensuring procedural fairness for small business. This next provision is commonsense, good Government legislation. Surely, we can all agree that small business owners, the individuals who do the most to drive our economy forward, deserve a break the first time they make an honest paperwork mistake when no one is hurt and the mistake is corrected.

Small business owners have told me over and over how hard they try to comply with all the rules and regulations imposed on them, mostly by the Federal Government. As a former owner of a small business myself, I know what they mean. Yet for all that work, a Government inspector can fine a small business owner for paperwork violations alone, even if the business has a completely spotless record and the employer immediately corrects the unintentional mistake. Who is hurt? Nobody is hurt, but it is an extra burden on small business.

I have to tell you a little bit about small business. They don't have a lot of employees. They don't have any specialists out there. Big business can hire people to take a look at the paperwork, and small business has to stay as lean and mean as they can to make a profit. Look at the difference between profits in your small businesses and your big businesses, and you will see they are staying pretty lean and mean.

I remember the first hearing I held in Wyoming after I became a Senator was on small business issues.

One has to remember, Wyoming has kind of a small population. So I was thrilled when people from about 100 businesses showed up for this hearing.

Afterwards, one of the reporters came up to me and said: Were you not kind of disappointed in the turnout?

I said, no, I was not disappointed in the turnout. These are small businesses we are talking about, and if they had an extra person to spend half a day at a hearing, they would fire them, as they have, to stay mean and lean, to stay in business.

So there is a whole world of difference in trying to meet some of the Federal paperwork mandates that are fineable. They are hard enough to learn about, so the first mistake that does not affect anybody and is corrected immediately ought not to be a fine. Even the best intentioned employer can get caught in the myriad of burdensome paperwork requirements imposed on them by the Federal Government.

The owners of small businesses are not asking to be excused from the obligations or regulations, but they do believe they deserve a break if they have previously complied perfectly with the law.

As Jack Gold, the owner of a small family business in New Jersey, told Congress a few years ago at one of our hearings:

> No matter how hard you try to make your business safe for your employees, customers, neighbors and family members, in the end, if a government inspector wants to get you, they can get you. The government cannot tell me that they care more for my family's safety and my company's reputation than I do.

When one has a small business, the people who work there are part of a family. Small business men and women who are first-time violators of paperwork regulations deserve our protection.

The third change: Providing regulatory relief for small businesses. As any increase in the minimum wage places burdens on small employers, it is only fair that we simultaneously address the ongoing problem of agencies not fully complying with congressional directives contained within the Small Business Regulatory Enforcement Fairness Act.

I will say that again: The Small Business Regulatory Enforcement Fairness Act. The titles are long to read, let alone the bills that go with them.

Under the law, agencies are required to publish small entity compliance guides for those rules that require a

regulatory flexibility analysis. Unfortunately, agencies have either ignored this requirement, or when they tried to comply have not done so fully or carefully. Now, the previous issue I talked about was small businesses having a little imperfection in a regulation for the first time and correcting it immediately. Now we are talking about the Federal Government having problems and ignoring requirements.

We do not have a penalty for that, but it is something to which the Federal agencies have to pay attention, and my amendment does this by including specific provisions that the Government Accounting Office has suggested to improve the clarity of the requirements. People ought to be able to read the rules and know what they say without having to hire a specialist or a lawyer.

The fourth change: Removing the barriers to a flexible time arrangement. My amendment includes legislation that could have a monumental impact on the lives of thousands of working men, women, and families in America. This legislation could give employees greater flexibility in meeting and balancing the demands of work and family. The demand for family time is evident.

Let me give some of the latest statistics. Seventy percent of employees do not think there is a healthy balance between their work and their personal life. Seventy percent of the employees say that family is their most important priority.

The family time provision in my amendment addresses these concerns head on. It gives employees the option of flexing their schedules over a 2-week period. In other words, employees would have 10 flexible hours they could work in 1 week in order to take 10 hours off in the next week.

We are not shifting pay periods or anything. We are making arrangements that if the employer and the employee agree, there can be a shift in their work schedule. Here is a really important part. Flexible work arrangements have been available in the Federal Government for over two decades. We are not asking for anything that the Federal Government does not already allow for Federal employees.

I have to say, one of the problems and one of the reasons this came to my attention is that Cheyenne, WY—that is our biggest city in Wyoming—has a little over 53,000 people. That is the capital. We have a lot of Government workers there because it is the capital. The Government workers are allowed to take flextime.

The private businesses that are there are not allowed to give flextime. So we have one spouse who works for the Government who can shift their schedule around to take an afternoon off to go watch their child play soccer in another town—and we have to drive some long distances in Wyoming to get to the other towns to watch the soccer games—but the other parent cannot because the other parent is working for a private company.

Why would we discriminate that way? Why would we allow Government workers to do some things that the private ones cannot do under the same law?

Flexible work arrangements have been available in the Federal Government for over two decades. This program has been so successful that in 1994 President Clinton issued an Executive order extending it to parts of the Federal Government that had not yet had the benefits of the program. President Clinton then stated:

> The broad use of flexible arrangements to enable Federal employees to better balance their work and family responsibilities can increase employee effectiveness and job satisfaction while decreasing turnover rates and absenteeism.

Now, why would we not want that to be in the private sector, too? I mean, the private sector ought to have broad use of flexible arrangements to enable their employees to better balance their work and family responsibilities, which would increase employee effectiveness and job satisfaction while decreasing turnover rates and absenteeism.

That sounds reasonable to me, that what we said the Government could benefit from that the private sector could benefit from, too. Why are we not allowing the private sector to do that?

I could not agree more with President Clinton, but we now need to go further and extend this privilege to private-sector workers. We know this legislation is not a total solution. We know there are many other provisions under the 65-year-old Fair Labor Standards Act that need our attention, but the flexible time provision is an important part of the solution. It gives employees a choice, the same choice as Federal workers.

I want to give a little bit of a summary on that flextime proposal because this is a key part of it. I have heard some flak before and, again, I think if we were debating this in the committee situation and working it out when we were not in front of the TV cameras that we would probably come up with this as a reasonable solution. It would be included in a bill, and we would probably pass it through by unanimous consent. But it gets mixed in with the minimum wage debate, and needs to be, so I want to make sure people understand this.

The flextime proposal would provide employees with the option of choosing time paid off for working overtime hours through a voluntary agreement with their employer. It will do this by allowing them the option of flexing their schedule over a 2-week period. In other words, employees would have up to 10 flexible hours they could work in 1 week in order to take paid time off during the following week.

I do not want anybody confusing this with a comp time provision that was put in before. This does not include the comp time provision. So any accusations that this is taking overtime away from anybody, I would contend, even under the comp time solution is not valid. Under a flextime proposal, it is not valid. Again, it is the same thing that we decided that Federal employees could have, and if we would put any extra strain on a Federal employee I am sure that would be illegal under wage and labor laws. So what we are proposing is the same thing as Federal workers.

Now, as I mentioned, this provision will allow them the option of flexing their schedules over a 2-week period, give them up to 10 flexible hours they could work in 1 week in order to take paid time off during the following week. This program would be strictly voluntary. No employer and no employee can be forced to enter into a flextime agreement. However, this legislation prohibits intimidation, threats, and coercion by the employers and would provide penalties for violations of the prohibition. The flextime legislation will not take away anyone's right to overtime pay.

The authority to allow employees flextime also sunsets 5 years after enactment of the bill. I am that confident that it will be proven to be a necessity for the employees, so much so that in all 50 States they will be demanding that their Senator keep flextime for them. The only reason it is not being demanded in all 50 States at the present time is because there are a bunch of employees who have not heard about it. Employees in Government areas such as Cheyenne, WY, have heard about it because, as I mentioned, one spouse has the right because they work for the Government. The other spouse does not have the right because they work for private business.

I have to say, both of those spouses are really upset that we have not changed the law. We need to do that.

Sometimes there is some criticism of this so I have to repeat again the flextime proposal does not affect the sanctity of the 40-hour week. The 40-hour week remains the law. Under the flextime proposal an employee would earn overtime in the very same way he or she currently does, by working more than 40 hours in the same 7-day period. This proposal does not impact any worker who prefers to receive monetary overtime compensation. It will not require employees to take compensatory time—I should say flextime. I do not even want that word ''compensatory'' in there because I do not want any confusion, as has been stated previously. Previously, we have offered flextime and comp time. This is a flextime proposal.

It will not require employees to take flextime, nor will it require employers to offer it. The bill contains numerous safeguards to protect the employee and to ensure the choice and selection of flextime. It is truly voluntary on the part of the employee.

The proposal does not prevent an employee from changing his or her mind

after he or she chooses time off in lieu of monetary compensation. An employee can choose at any time to cash out any and all time off. The employer must make the payoff.

The fifth change I am making: extending the restaurant employee tip credit. A major employer of entry-level workers is the food service industry. The industry relies on what is known as the tip credit, which allows an employer to apply a portion of the employee's tip income against the employer's obligation to pay the minimum wage.

Currently, the Federal law requires a cash wage of at least $2.13 an hour for tipped employees, and it allows an employer to take a tip credit of up to $3.02 of the current minimum wage. To protect tipped employees, current law provides that a tip credit cannot reduce an employee's wages below the required minimum wage. Employees report tips to the employers, ensuring that an adequate amount of tips are earned.

The facts are that seven States—Alaska, California, Minnesota, Montana, Nevada, Oregon, and Washington—do not allow a tip credit, however, requiring raises for an hourly employee when States increase their minimum wage. The lack of a tip credit requires these employers to give raises to their most highly compensated employees, the tipped staff, under State minimum wage laws. Non-tipped employees in these States, in these businesses, are negatively impacted by the mandated flow of scarce labor dollars to the tipped positions. In addition, employers in these States are put at a competitive disadvantage with their colleagues in the rest of the country who can allocate employee compensation in a more equitable manner.

My amendment expands the tip credit to non-tip credit States, consistent with the initial establishment of the credit under the Fair Labor Standards Act.

I can probably give a little better and more detailed explanation. What is the tip credit? The tip credit allows an employer to apply a portion of an employee's tip income against the employer's obligation to pay the minimum wage. Federal law requires a cash wage of at least $2.13 an hour, and it allows an employer to take a tip credit of up to $3.02 of the current minimum wage.

Seven States do not allow a tip credit, instead requiring the tipped employees receive the same minimum wage as other employees. Non-tipped employees are negatively impacted by the flow of scarce labor dollars. This amendment expands the tip credit to non-tip credit States, consistent with the initial establishment of the credit under the Fair Labor Standards Act. Therefore, States which do not currently recognize the tip credit will be allowed to take a credit for tips of up to $3.02 of the minimum wage, which will be $6.25. For other current law, this calculation will be based on employees' own reporting of tips to their employers.

There is a false accusation out there, and it happened in previous debates. The Democrats misconstrued the effect of this change and alleged it would nullify all State wage-and-hour statutes in States that do not have a tip credit. This was never the intent of the provision, and additional language has been added to clarify that only affects the minimum wage rate provisions. Furthermore, the provision will only affect States that currently lack a tip credit. So we have added language to clarify it so it is only the minimum wage rate provisions. That is a very important part of that.

The sixth provision is a small business tax relief. I apologize for having to explain all of these on the floor. Again, this would be much better as committee work, but that has not been the opportunity.

If we are to impose greater burdens on small businesses, we should give them tax relief at the same time. My amendment would extend small business expensing, simplify the cash accounting methods, and provide depreciation relief for restaurants. All these tax provisions are fully offset; they are paid for. But they, again, smooth the bumps on those businesses that will be most impacted by an increase in the minimum wage, which gives them a way to be able to pay the increase in the minimum wage. Remember, that has to be paid for, too. Otherwise it drives them out of business, which means fewer jobs or it requires them to reduce other benefits, and often there are not other benefits.

In total, the additional provisions of my amendment are intended to mitigate the small business impact of a $1.10 increase in the minimum wage. I share the view of my colleagues, if we are going to impose such a mandate on the Federal level, we must do our best to soften its blow. This may be the best we can do today, but I entreat all of my colleagues to look at the true root of the problem for minimum wage workers, and that is minimum skills. We all share the same goals, to help American workers find and keep well-paying jobs. Minimum skills, not minimum wages, are the problem. Education and training will solve that problem and lead to the kind of increased wages and better jobs we all want to create for our Nation's workers.

Let's work together to get the Workforce Investment Act passed and conferenced—conferenced this time—so the President can sign it and get higher skills training accelerated.

Let me run through quickly what those six proposals are: raise the minimum wage by $1.10 over 18 months—we agree on that; permit family flextime for workers so that workers in private business have the same opportunity as workers in the public sector; increase the small business exemption from the Fair Labor Standards Act so that the small business level changes from $500,000 to $1 million; the small business one-time paperwork errors relief, when it is for the first time and corrected immediately; the small business regulatory relief actually being operated to protect small businesses; the minimum wage tip credit for restaurant workers; and then some other small business tax relief mainly aimed at those businesses that will be most affected by what we are doing.

I urge my colleagues to oppose the amendment offered by Senator KENNEDY and urge all Senators to support my amendment so we get the whole process taken care of. Again, I thank my colleagues for their patience. I needed to explain this in some detail since it has not been handled in committee.

I yield the floor.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Rhode Island.

AMENDMENT NO. 2077

Mr. REED. Madam President, I ask unanimous consent the pending amendment be set aside and further ask unanimous consent to call up amendment No. 2077, pending at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. REED], for himself, Ms. COLLINS, Mr. KERRY, Mr. KENNEDY, Ms. SNOWE, Ms. CANTWELL, Mrs. CLINTON, Mr. COLEMAN, Mr. HARKIN, Mr. DORGAN, Mr. SCHUMER, Ms. STABENOW, Mr. SMITH, Mr. LAUTENBERG, Mr. BAUCUS, Mr. BINGAMAN, Mr. KOHL, Mr. DURBIN, Mr. JEFFORDS, Mr. SALAZAR, Mrs. LINCOLN, Ms. MIKULSKI, Mr. LEAHY, Mr. ROCKEFELLER, Mr. LIEBERMAN, Mr. JOHNSON, Mr. REID, Mr. CORZINE, Mr. LEVIN, and Mr. DODD proposes an amendment numbered 2077.

Mr. REED. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To provide for appropriations for the Low-Income Home Energy Assistance Program)

At the end of title VI, insert the following:

ADMINISTRATION FOR CHILDREN AND FAMILIES

LOW INCOME HOME ENERGY ASSISTANCE

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 8621 et seq.), $3,100,000,000, for the unanticipated home energy assistance needs of 1 or more States, as authorized by section 2604(e) of the Act (42 U.S.C. 8623(e)), which amount shall be made available for obligation in fiscal year 2006 and which amount is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

Mr. REED. I also ask unanimous consent Senator DODD be added as a cosponsor to the amendment.

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

Mr. REED. I further ask unanimous consent that Senator NELSON of Florida be added as an original cosponsor of amendment No. 2113.

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

Mr. REED. Madam President, the topic of this amendment is increasing the funds available for the Low-Income Home Energy Assistance Program, LIHEAP. We are about to see a second tidal surge from Katrina and Rita; it is not rising waters, it is rising energy prices, and those rising prices are going to break with ferocity on people all over this country, particularly those individuals who live in States that are going to see a cold winter, which is beginning shortly. Low-income Americans are going to be faced with extraordinary challenges in meeting their energy bills this winter.

We have already seen huge increases in prices of heating oil, natural gas, and propane. We understand, without some further assistance, we will be in a very precarious position, and these families will be in a distressed position. I particularly thank Senator COLLINS, Senator SNOWE, Senator COLEMAN, and Senator SMITH for their bipartisan leadership on this amendment—particularly Senator COLLINS—for joining me in this effort. She has been a stalwart over several Congresses with respect to supporting the Low-Income Home Energy Assistance Program.

We are reaching across the aisle and across the country to provide more assistance to the LIHEAP program. We offer this amendment with 30 cosponsors. It is bipartisan, stretching across the length and breadth of this country. It seeks to add $3.1 billion to the HUD appropriations bill in emergency energy assistance.

Energy costs for the average family using heating oil are estimated to hit $1,577 this winter, an increase of $378 over last winter's heating season. For families using natural gas, prices could hit $1,099 this winter heating season, an increase of $354. Families using propane can see heating costs on average this heating season to be approximately $1,400. That is another increase of $300. For families living in poverty, energy bills now are approximately 20 percent of their income compared to 5 percent for other households. Unless we take action now, we are going to see families in this country, low-income working families, families struggling with the issue of poverty, seniors who are living on fixed incomes being devastated.

Mr. REID. Will the Senator yield?

Mr. REED. I yield to the Democratic leader.

Mr. REID. I would state Senator BAUCUS has a unanimous consent request and would like to make a few remarks prior to that. Will the Senator yield to Senator BAUCUS?

Mr. REED. I am prepared to yield. My colleague from Maine is here to speak.

Mr. REID. I ask you to yield to your colleague from Montana first.

Mr. REED. If I could do so and then, with the order being that at the conclusion of Senator BAUCUS, Senator COLLINS be recognized to speak.

Mr. REID. We, of course, have no objection if you get the floor following Senator BAUCUS.

The PRESIDING OFFICER. Is there objection?

Mr. BROWNBACK. Let me make sure I understand this.

Mr. REID. I asked the Senator from Rhode Island to yield to the Senator from Montana. He has a brief statement and unanimous consent request he is going to make. Then I have no problem.

Mr. REED. Reclaiming the floor, I ask how long the Senator from Montana might speak?

Mr. BAUCUS. I expect maybe 4 or 5 or 6 minutes.

Ms. COLLINS. Madam President, the Senator from Rhode Island and I have been waiting for some time to give our comments. I expect that my comments are only going to be 5 minutes.

Mr. REID. We will be happy to wait until the Senator from Rhode Island and the Senator from Maine finish their statements.

Mr. REED. Madam President, I think probably the most efficient way to do this is let me yield the floor to the Senator from Maine. When she concludes, I ask the Senator from Montana be recognized. At the conclusion of the comments of the Senator from Montana, if I can be recognized again, I will finish my statement.

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

The Senator from Maine.

Ms. COLLINS. Madam President, first, let me thank my colleague and friend from Rhode Island for accommodating my schedule and for his usual graciousness. It has been a great pleasure to work with him on an initiative that is so important to low-income families in our country and that is increasing the funding for the Low-Income Home Energy Assistance Program. We are proposing to increase the funding to the amount authorized by the energy legislation that was signed into law a couple of months ago, so we are proposing to bring it to the fully authorized level of $5.1 billion.

Madam President, I am sure it is very similar in your State. When I go home to Maine, as I do every weekend, the No. 1 issue that people talk to me about is the high cost of energy. They have expressed over and over their fear that they simply will not be able to afford the cost of heating oil for their homes this winter. The cost increases have been enormous. They are, in part, attributable to the two hurricanes that we have endured, and that is why I view this as part of the emergency response to Hurricane Katrina and Rita.

Right now in Maine, we have already had some nights that have plunged below freezing. In Maine, 78 percent of all households use home heating oil to heat their homes. Currently, the cost of home heating oil is more than $2.50 per gallon. I actually paid $2.72 per gallon recently. That is a considerable increase, 60 cents or more a gallon, over last year's already high prices.

These high prices greatly increase the need for assistance. More low-income families are going to be in dire straits. Moreover, as it increases, it has an impact on the amount of money that can be given out, so we have a pot of money that is going to have to be spread over a larger population at a time when prices are soaring.

Last year, there was an average benefit in Maine of $480. This year it is expected that the benefit would have to be cut to $440. That would purchase only 173 gallons of oil, far below last year's equivalent benefit of 251 gallons, and not nearly enough, of course, to go through a Maine winter. To purchase the same amount of oil this year as last, Maine would need an additional $10.8 million in LIHEAP funds.

This really is a choice, for many low-income families in our country, of buying the home heating oil or natural gas that they need to keep warm or putting adequate food on the table or buying much-needed prescription drugs. Surely, in a country as prosperous as ours, no low-income family should be forced to make those kinds of choices.

I urge support for the amendment offered by the Senator from Rhode Island and myself, and again I thank the Senator for his courtesy in yielding to me.

The PRESIDING OFFICER. The Senator from Montana is recognized.

UNANIMOUS-CONSENT REQUEST—S. 1716

Mr. BAUCUS. Madam President, it has been more than 7 weeks since Hurricane Katrina hit the gulf coast—7 weeks. Nearly 1.5 million Americans have been displaced. Tens of thousands of these survivors have no health care coverage and no money to pay for care. It is high time for passage of the Grassley-Baucus Emergency Health Care Relief Act, S. 1716.

On Monday, the Los Angeles Times ran a story on a 52-year-old schoolbus driver from New Orleans, Emanuel Wilson. Mr. Wilson survived Katrina, but his life is still at risk. Why? Because he has intestinal cancer and he has no health insurance.

Mr. Wilson was getting monthly chemotherapy injections before the storm, but now he cannot get any health care.

He lost his job and his health coverage because of Katrina, and he is ineligible to receive Medicaid.

According to the New Orleans Times-Picayune, more than half of all hurricane evacuees still in Louisiana who sought Medicaid coverage since Katrina have been turned away. More than half were turned away. These are poor people. They aren't people with a lot of money. They are poor people. They can't get coverage because they do not meet the rigid eligibility guidelines under Federal Medicaid law.

We need to relax those guidelines on a temporary basis, on an emergency basis, to help those survivors desperately in need.

This morning, my staff met with Secretary Cerise, secretary of Louisiana's Department of Health and Hospitals.

And Dr. Cerise reported that Louisiana's Medicaid Program has enrolled 60,000 new individuals because of Katrina, which would cost the State about $83 million if they were to pay for the care.

Louisiana has just lost about one-seventh of its total expected State revenue this year, and they cannot bear these additional costs. They are likely to need to make dramatic cuts to the Medicaid Program if they don't get help soon.

Dr. Cerise reports that Louisiana will have to cut all optional services to beneficiaries if they do not get help.

What does that mean? That means ending their hospice programs, ending their pharmacy benefits, ending their institutional care for the mentally retarded, ending their dialysis and other benefits, cutting off care for their medically needy, breast and cervical cancer patients, as well as thousands of low-income children.

We have spent far too long talking about this bill. Far too many times have we been asking unanimous consent to get this bill passed—far too long. These are temporary provisions.

America can do better. America can help its people in need in times of emergency.

Where is America? Where is the Senate?

My colleagues, Senator GRASSLEY, Senator LANDRIEU, Senator LINCOLN, and Senator REID have all spoken passionately supporting moving this bill forward and moving it forward immediately.

I hope we can get this bill passed and enacted into law without delay. We owe at least this much to our fellow Americans hit by Katrina and its aftermath.

It ties in very much with the latest dialog on the floor with the Senator from Rhode Island about the need for LIHEAP money. Energy costs are going up around the country. They are going up so quickly, so high, and it is the kind of problem facing the people down on the gulf coast.

I urgently ask our colleagues to support this bill.

I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 214, S. 1716, a bill to provide emergency health care relief for survivors of Hurricane Katrina; that the bill be read a third time and passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. SUNUNU. Madam President, if I might reserve the right to object, we had this conversation on the floor before. The bill has been brought to the floor, and attempts have been made to pass it by unanimous consent.

This bill includes provisions that change the reimbursement rates under Medicaid for 29 States, regardless of how many evacuees they might have in that State, regardless of whether they were affected by Hurricane Katrina or Hurricane Rita. It is completely inappropriate to try to make adjustments in Medicaid under the umbrella or the cover of hurricane relief.

There are legitimate questions about whether and how we can provide assistance to those under Medicaid affected by Hurricane Katrina or Hurricane Rita.

Eight States have already been granted waivers to modify eligibility to help provide that coverage. But in an effort to deal with some of the concerns I have—and other Senators have concerns about this bill—this $9 billion bill to support a statute that gives the Secretary of Health and Human Services the power to change reimbursement rates to compensate States for additional costs incurred under Medicaid as a result of the hurricane, we would put into law the uncompensated care pool that is part of this legislation to help deal with some of the costs outside of Medicaid. We have even proposed providing some support and assistance to community health centers, something that is not even in this legislation—community health centers being so critical to providing assistance not just to Medicaid beneficiaries but to those who are underinsured or those who are without any health insurance for whatever reason. I think these are very reasonable proposals.

I think this is a good-faith effort to address some of the concerns that have been presented, but even in the absence of legislation through the State waiver process, through the efforts of Secretary Leavitt of Health and Human Services, I think every good-faith effort is being made to provide assistance, to provide coverage to those in need.

Given that fact, I will object at this time to the unanimous-consent request.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Madam President, with all due respect, we have heard these lamentations before. We have heard it all, with due respect, before.

Let me just clear the record a little bit. The Senator mentioned waivers. The Secretary has admitted that he does not have authority under the waiver system to do what needs to be done. He does not have authority to make these hospitals—not whole but to get some uncompensated care for these hospitals. He does not have authority to do so. He does not have authority to make other provisions that are necessary in this bill.

I must say this is a temporary bill. It is only on an emergency basis.

I am willing to—and I think a lot of my colleagues are willing and concerned about the costs—take it out of the unspent FEMA money. We appropriated in this body about $60 billion for FEMA. I understand that maybe roughly $40 billion of that has not been spent.

If the Senator is concerned about the costs, we could take it out of FEMA and help people who really need help. The Secretary does not have the authority to do what needs to be done. And, second, the administration has not come up with any real plan to say where the money is going to come from. It is all just talk, words.

If the Senator from New Hampshire is willing to take the money out of FEMA, or if he is willing to say trim back a little bit to come up with a deal with 29 States to immediately pass a bill that may be trimmed down a little bit and paid for out of FEMA, then we would be doing the country a great deal of service.

But to stand here day in and day out for 27 weeks, for a Senator to stand on the floor and say we can't help people in Louisiana and the Gulf States, we could sure help New Yorkers after 9/11. We can help them, but we can't help the people on the gulf coast.

These are the same Medicaid provisions that we gave the people in New York City as a consequence of 9/11—the same eligibility standards, the same.

In other words, let us do it for the gulf coast people, if we can do it for New Yorkers. It is great for New Yorkers. We are all for it. Let us figure out a way to help the people in the Gulf States—help them a little bit. This administration does not want to do so, and the other side doesn't want to do so. I cannot believe it when the big rush right now is to cut Medicaid—cut Medicaid, cut Medicaid. We want to help the people.

Mr. DURBIN. Madam President, will the Senator yield for a question?

Mr. BAUCUS. I would love to yield to the Senator.

Mr. DURBIN. If the Senator from Montana will yield for a question, I would like to ask him about New York City. Isn't it a fact that after the 9/11 disaster, within 2 weeks we expanded Medicaid coverage under a disaster relief Medicaid assistance program so that 340,000 New Yorkers were able to start receiving Medicaid for 4 months? We spent $670 million on that assistance. We did that within 2 weeks. And now 7 weeks have passed, and this administration has not come forward with any help for Hurricane Katrina victims when it comes to Medicaid.

Mr. BAUCUS. In answer to the question of my colleague, it is absolutely true. We came to the aid of people who needed aid in New York within a couple of weeks. That was the right thing to do. We are a passionate people, a country willing to help people in need, particularly when it is an emergency need.

Mr. DURBIN. If the Senator will yield for a further question, this is a bipartisan amendment which the Senator just offered, along with Senator GRASSLEY, Republican of Iowa, Senator BAUCUS, of course, of Montana, and many other colleagues to come forward to try to help the victims of this hurricane. Have we turned the page now? Are we not thinking about what happened down there? I hope we haven't.

Let me ask the Senator from Montana, is it a fact, No. 1, that the relief

that he is proposing is temporary and short term? It is 5 months of Medicaid relief for these people who are in the worst circumstances. And, second, it would help States like mine and many others that have brought in evacuees. In our case, we brought 5,000 evacuees into our State to help them out. We have incurred more expenses in Medicaid expenditures to help these families so that these caring people in States around the gulf coast area who are really trying to help will not be ignored by the Federal Government.

Is that the intent of the amendment?

Mr. BAUCUS. The Senator is correct. That is the intent of the amendment. I thank the Senator for raising that point.

This is not a partisan effort at all. This is just a compassionate effort on the part of both Republicans and Democrats. I might say that all Senators—Republicans and Democrats—in the States affected would like to see this bill passed. All the Governors in the States affected—Republicans and Democrats—would like to see this bill passed. The House delegations from the States affected would like to see this bill passed. It is very much bipartisan.

The second point the Senator made is a very good one. A lot of evacuees have gone to a lot of States across the country—many in Illinois. Some have come to my State in Montana from New Orleans. We are very gracious and want to do all we can to help the people who are so dislocated.

If we stop and think for a moment, the Senators lead pretty comfortable lives. For these people, it is incredible hardships they are going through. We forget all they have to go through. They don't have houses, anyplace to live, no way to pay bills, no job, their kids are out of school, or where they can go to school, health care needs—they are incredibly affected.

I do not know how many Members have gone down to the gulf coast. Raise your hand if you have gone down to the gulf coast and have seen it all. There are two. We have seen it. It is Biblical. There is not a word for it. It is a tragedy that is affecting people on the gulf coast. It is Biblical. My Lord, my God, why can't the Senate do something about it?

Why are we here, Senators? To say no? That is not why we are here. We are here to do the right thing. We are not asking for the Moon. We are just asking for a little bit of help.

Mr. DURBIN. If I can ask one more question, so those who are following this debate understand, the Senator asked unanimous consent to go to this temporary measure—a 5-month measure, a bipartisan measure—to help the victims of Hurricane Katrina, and because one Senator from one State on the other side of the aisle objected, we cannot move to consider this issue at this time. Is that true?

Mr. BAUCUS. The Senator is correct. That is the situation we are in.

Mr. DORGAN. Madam President, if the Senator will yield for a question, I think I heard those who object to the unanimous consent request of the Senator from Montana suggest that somehow he is trying to solve a problem that doesn't exist; that this can be handled in other ways. Could the Senator from Montana describe to me the circumstances of people who are affected? If this legislation is not made available on an emergency basis in human terms, isn't it a fact that we have people, particularly low-income people, who have lost everything?

Incidentally, I went to the Armory here in Washington DC and talked to those folks who have come here, left home with nothing to escape the ravages of the flood waters and are there with their children and the clothes on their back and nothing else.

What are the real consequences for people who are in that situation if the Senator's legislation is not adopted? We did this for 9/11 victims. We did it for a good reason, I assume. If we don't do it here, and now weeks have marched by with no action, what are the human consequences of our deciding not to do this?

Mr. BAUCUS. I appreciate the Senator's question. People are not going to get health care. The diabetics will be scrambling wondering where they are going to get their insulin shots. People getting chemotherapy will be wondering where in the world they are going to get their chemotherapy. For mentally affected people, where are they going to get their assistance? Particularly those who have lost their jobs and don't have any insurance anymore, where are they going to get their insurance? If they lost their jobs and they do not have money to even pay for basics, let alone health care, how are they going to pay for food? Where are they going to live? It is incredible.

I wish all Members in this Senate would go to the gulf coast and walk around New Orleans, walk around the gulf coast of Mississippi, and feel, see, smell, taste how devastating this tragedy is. We would be rushing to pass this legislation if Senators would go down there to see what is going on.

Mr. DORGAN. If I might ask an additional question, this is about health care. Health care is not a luxury. When you or your kids are sick, particularly in the circumstances where you have been the victim of a significant disaster, you have been displaced and lost everything, health care ought not be a function of whether you have money in your billfold.

I ask the Senator from Montana, is it the case that your legislation will not break the bank? You have suggested other ways to pay for it. It is bipartisan. You are coming to talk about something that is an essential for people. This is not some luxury. We are talking about health care. When we talk about the five most important things for people here, there, or wherever, health care is right near the top. If you do not have health care, if you do not have your health, you do not have much.

The Senator from Montana has been here a number of times. My hope would be that our colleagues would not object and that the Grassley-Baucus proposal would be accepted and we would move on. This ought not be a point of contention at all. This ought to be easy for this Congress.

Mr. BAUCUS. Madam President, I might also add, the primary sponsor of this legislation is the chairman of the Committee on Finance, Senator CHUCK GRASSLEY from Iowa. Senator GRASSLEY is known in this Senate, probably more than any Member for doing the right thing. He is not a partisan. He is not political. He does what he thinks is right. It is clear to the chairman of the Senate Committee on Finance that this is right. I join with him to do something that is right.

We have talked this out with all members of the committee, both sides, how to tailor this, modify it, make it work or not work, and I am quite confidence it would be agreed to unanimously by all members of the committee.

I mentioned the States affected. The Senators of the States affected all want this. The Governors all want this—and there are more Republican than Democrat. And the mayors want it because they know it is the right thing to do.

Again I make the request.

Mr. SUNUNU. Madam President, reserving the right to object, and I apologize for taking additional time, I know Senator REED is due to be recognized by consent as soon as this lengthy and, in my opinion, unnecessary discussion is complete. It is important to note this bill does not take the funding out of FEMA as has been represented. We suggested that.

Mr. BAUCUS. If the Senator is willing to take it out of FEMA, we are willing to do that.

The PRESIDING OFFICER. Is there objection?

Mr. SUNUNU. Madam President, I object.

The PRESIDING OFFICER. The objection is heard.

The Senator from Rhode Island is recognized under the previous agreement.

Mr. REED. Madam President, I will continue my remarks about the LIHEAP program. I certainly salute the Senator from Montana for his passion, his eloquence, and his sense of decency. We should be moving on this legislation. It is a bipartisan effort, just as this LIHEAP legislation is a bipartisan effort. They are both linked by the devastation in the gulf. So many families have been displaced from their homes, their homes destroyed. They are looking for health care. Other families in the Northeast, in the Midwest, in the Far West, and in the Mountain States where this winter will be cold and difficult to bear will also see the effects of Katrina. They have seen them already in rising energy prices.

As I indicated in my prior remarks, this is the second wave, the second surge. The first was waters through the gulf. The second is increased energy prices for the rest of the country.

No family should be forced to make choices between heating or eating. That is precisely what many families will be faced with this winter unless we adopt this proposal and increase LIHEAP funding by $3.1 billion.

The RAND Corporation found in a study that low-income households reduced food expenditures by roughly the same amount as their increases in fuel expenditures. They cut back on food to pay for heat. That is not something any American wants to see or wants us to tolerate.

It is particularly difficult for seniors. Recently, I visited the home of Mr. Ohanian in Cranston, RI. Mr. Ohanian is an 88-year-old veteran of our military service. He served this country. Now he lives on a Social Security check of $779 a month. One does not have to have advanced training in economics to figure out that with these energy prices this year in the Northeast—Senator COLLINS indicated she was paying $2.70 a gallon for heating oil—that adds up quite quickly, and it wipes out a monthly income of $779. As a result, Mr. Ohanian has to go to his daughter's house sometimes for food, goes to soup kitchens to get help. He deserves it. He served this country in a most difficult time, in uniform. What we have is a situation where last year Mr. Ohanian received $600 in LIHEAP payments. It helped. It did not pay for all the fuel costs, but it helped. Unless we put this money in, his costs will be way out of proportion to what he can bear.

Recently, the Social Security COLA was announced. It is $65 a month. Any increase is appreciated, but that is already wiped out more or less by increased contributions to health care programs that are required. When you put on top of that for a senior this huge spike in energy prices—be it natural gas, heating oil, or propane—they are losing ground rapidly, unless, of course, we act to at least bring them up to the level of last year's program.

We need to fully fund the LIHEAP program at the $5.1 billion authorized in the Energy bill. This amendment would do that. It would add $3.1 billion in emergency spending to the $2 billion the President has requested. That is roughly what we had last year, just a little bit below. Do the math. If we have just $2 billion and we have increased energy prices—just take heating oil. Last year, heating oil was roughly $1.92. Expensive? Yes. Now it is $2.70. The same amount of monthly income, huge increases in energy costs. How can we provide that assistance we provided just last year?

As Senator COLLINS indicated, look at the poverty numbers. Poverty has increased every year for the last several years. There are more people qualified for this program. This is an anticipated disaster—in some respects, the same way Katrina was anticipated.

I hope we can learn from Katrina, not just sit back and watch idly, watch the impact, watch poor people suffer. Not just poor people who were caught up in the tumult and terror of New Orleans—but poor people in Portland, ME; New Haven, CT; in Cleveland, OH; in Seattle, WA; in Butte, MT. I expect it gets cold out there in the winter. They will be caught up.

I thought after Katrina we had a coming together, led by the President, to recognize we are failing people who are poor, that we are not doing what we have to do to keep faith with them. I can remember his words at the Washington National Cathedral. Have those words evaporated already? Are those words not operative now? I hope they are. I hope we take them to heart. If we do, we will pass this amendment, and we will pass the legislation of Senator BAUCUS and Senator GRASSLEY. That is what I thought the President was telling us to do at the Cathedral speech.

Now, even if we do have funding of an additional $3.1 billion, we are still only serving about one-seventh of the 35 million households poor enough to qualify for assistance. So we are not talking about a program that has so much money that they do not know what to do with it. What they have is so many customers and clients that they do not know what to do with them. And what happens, is these people will apply to the community action agencies across the country, and they will be put on waiting lists. They will try to help some. We can do much better. I hope we can start by passing this legislation.

We also need Presidential leadership. What has happened from the speech on the pulpit of the National Cathedral until today when it comes to LIHEAP? Nothing. Those were very powerful words, but they require powerful actions. We have not seen, in this respect, those actions.

We have to do other things to get our energy house in order. In fact, this is not just an issue of domestic politics. It is probably the single most important thing we can do over the next several years to improve our strategic position in the world vis-a-vis those who would be our adversaries or those who compete with us. From a national security standpoint, we have to take steps to make our energy future more independent, more sensible. But we have to do things today that will help Americans.

I am very proud Senator CANTWELL is a cosponsor of this particular amendment. She is also the sponsor of the Energy Emergency Consumer Protection Act to bring prices down at the gas pump in the wake of natural disasters such as Hurricane Katrina.

In addition, we have to pass Senator DORGAN's Windfall Profit Rebate Act which imposes a temporary windfall profit tax on big oil companies and uses the revenue to bring a rebate to American consumers to help offset the higher cost of oil and gasoline products. I am told the oil companies—the energy companies—will be reporting their quarterly earnings in the next few days, and most estimates are they could be the most profitable reports ever issued by companies in this country because of this extraordinary run-up in pricing. Some of that money should come back to Americans.

Total energy spending in this Nation this year will approach $1 trillion—24 percent higher than in 2004. It will claim the largest share of U.S. output since the end of the oil crisis 20 years ago. Oil and natural gas companies make huge profits while workers' salaries are declining in real terms. This is wrong. We have to fix it.

We have to pass Senator CANTWELL's legislation, Senator DORGAN's legislation, and, of course, immediately, we have to help restore funding and increase funding for LIHEAP program. The President and Secretary Bodman have called on Americans to reduce their energy use. They have to lead by example. One way to lead is to support, articulate, and advocate, for sensible energy programs and this LIHEAP proposal to increase that funding.

We have to do much more. I hope we begin, with respect to energy, by recognizing the pending crisis that will face so many families in this country, so many seniors. They will be cold this winter. They will give up eating so they can heat their homes. They will miss mortgage payments and rent payments because they have to at least stay warm.

We can do much better. America can do better. I hope we do.

I yield the floor.

Mr. BOND. Pursuant to section 402 of H. Con. Res. 95 of the 109th Congress, the fiscal year 2006 concurrent resolution on the budget, I make a point of order against the emergency designation contained in this amendment.

Mr. REED. Madam President, I move to waive the applicable sections of the act referenced by the Senator and at the appropriate time would ask for the yeas and nays.

Mr. BOND. Madam President, I ask unanimous consent that this measure be set aside to be set for a vote at a time determined by the leaders on both sides.

The PRESIDING OFFICER. Is there objection?

Ms. CANTWELL. I object.

The PRESIDING OFFICER. The objection is heard.

Ms. CANTWELL. Reserving the right to object, Madam President, I would like to enter into a time agreement to speak on this amendment.

The PRESIDING OFFICER. Does the Senator object to the request?

Mr. BOND. Madam President, there is time to speak. We would be happy to find the time for the distinguished Senator from Washington to speak. We are just asking this be set aside. If the objection is sustained, we will go immediately to a vote and get it out of the way.

Mr. REED. Madam President, parliamentary inquiry: I believe what happened, the floor manager raised a budget point of order. I have requested a waiver of that act. We have agreed at some time in the future we will have a vote on that. Now it is in order to have further discussion of the amendment, and Senator CANTWELL can discuss her amendment.

Mr. BOND. Madam President, I believe that is correct.

The PRESIDING OFFICER. The Senators are correct.

Mr. BOND. Madam President, before I yield the floor to the other Senators who wish to speak, first, let me point out that while LIHEAP is a very important subject, it has nothing to do with this bill. There will be the Labor-HHS appropriations bill on the floor next week. There will also be a supplemental bill which will deal with it. While I am a big supporter of LIHEAP, this measure should be appropriately discussed in the forum where LIHEAP is handled. Either one of those two vehicles is appropriate.

Now, Madam President, I ask unanimous consent that at 4:30 today, the Senate proceed to a vote in relation to the Kennedy amendment No. 2063, to be followed by a vote in relation to the Enzi amendment No. 2115. I further ask consent that prior to those votes there be 3 hours for debate equally divided between Senators ENZI and KENNEDY to run concurrently on both the Enzi and Kennedy amendments; provided further that no second-degree amendments be in order to either amendment prior to the votes. I further ask consent that if either amendment does not have 60 votes in the affirmative, that amendment then be automatically withdrawn or fall to the point of order, if applicable. I further ask consent that there be 2 minutes equally divided prior to each vote.

The PRESIDING OFFICER. Is there objection?

The Senator from North Dakota.

Mr. DORGAN. Madam President, reserving the right to object—I do not think I will object—but in order to expedite consideration of amendments on the floor, I was wanting to offer the remaining amendment I have, with very brief comments, so that at least I have offered the amendment on behalf of myself and Senator CRAIG. I was hoping to be able to do that following the remarks of the Senator from Washington, who I believe is going to comment on the legislation she is cosponsoring with Senator REED. So if it would be acceptable to the chairman and ranking member, following the remarks of the Senator from Washington, if I would be recognized simply to lay the amendment down. I ask unanimous consent to do that.

Mr. BOND. No objection.

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

Is there objection to the initial request?

Without objection, it is so ordered.

The Senator from Washington.

Ms. CANTWELL. Thank you.

AMENDMENT NO. 2077

Madam President, I do rise to support the Reed-Collins amendment to further make a down payment on the low-income energy assistance program known as LIHEAP.

This is a program the State of Washington knows all too well. I say that because our State was hard hit by an energy crisis in the last several years that left many low-income people suffering the consequences of high energy costs. If anything, the Northwest is a poster child for what is about to happen to the rest of the country. Those results were devastating. In one county alone, Snohomish County, where I live, we had a 44-percent increase in disconnect rates in 1 year. That meant 14,000 people lost power to their homes because of high energy costs.

Those high energy costs were also passed on to school districts, which had to choose between hiring teachers and getting books and paying the high cost of energy. It also had an impact on economic development. Businesses decided that perhaps they did not want to move to that county if they were energy-intensive users and businesses on low margins until the energy rates come down again. We saw people who actually lost their jobs and lost their pensions because of those high energy costs.

What this amendment does, added to this bill, is to give the consumers in America who are the most hard hit by energy costs some relief. If you think about it, we are talking about the elderly, the disabled, those who are on low incomes. We are talking about an individual who may make less than $12,000 a year or a couple who may make less than $16,000 a year. Now they are faced with anywhere from a 30- to 50-percent increase in energy costs. It is a question as to whether they are going to be able to keep the lights on and the heat in the home or whether they are going to be left out in the cold by this administration and by this Congress.

I hope my colleagues will do the right thing in adopting the Reed-Collins amendment and being serious about LIHEAP, knowing the devastating consequences of the high cost of energy to our economy and people on the margins. It is heartless to think we would continue to adopt resolution after resolution dealing with other impacts to our economy and leave those most vulnerable out in the cold.

The LIHEAP Program serves a very small percentage of the people who actually qualify. Last year, 72,000 Washington State residents received assistance from the LIHEAP Program, but many more could actually qualify. That is, there are many more who are living on the margins who need that kind of help and assistance to stay in their home.

Last week, I met with a woman who has lung cancer, the mother of five, who is disabled, who needs the LIHEAP Program to continue to remain in her home. Yet 76 percent of those who qualify who will not get aid. This piece of legislation will not help all of them, but it will help a small percent. It will help a small percent of Northwest residents who will be battling the high cost of energy again for another year in a row, to get some assistance from the low-energy income program.

This amendment should be a top priority for the Members of this body. I say that because, having fought to get these LIHEAP Programs from the contingency fund in the past when my State was greatly impacted, I know how important it was to the residents who actually received them. Now the rest of the country is going to be impacted by those same dynamics of very high energy costs. The question is whether we will, as a body, approve the Reed-Collins amendment to actually take the appropriations level up to the level that has been in the authorizing bill. I think it is the prudent thing to do. I think it is the wise thing to do to help the residents of this country, who are going to suffer from a very tough winter and high energy costs.

I, like my colleague Senator REED, want to fight for other legislation that will help us reduce the high cost of energy and certainly look at the practices of predatory pricing. We need to give consumers the confidence that there is competition in the marketplace, that there are Federal agencies that will protect consumers from price gouging, and that those who participate in price-gouging activities will spend time in jail. But in the meantime, as we are continuing to push and fight for that legislation, we need to make sure those who are most vulnerable in our society get the help and support they deserve. So I hope my colleagues will take the Reed-Collins amendment this afternoon and realize we cannot give tax breaks to others and leave those most vulnerable in our society without the hope of a warm, secure winter.

America can do better. We can take care of the elderly, the disabled, and the low income when it means they are going to have to pay exorbitant energy costs.

I yield the floor.

The PRESIDING OFFICER (Mr. THUNE). The Senator from North Dakota.

AMENDMENT NO. 2133

Mr. DORGAN. Mr. President, I send an amendment to the desk on behalf of myself, Senator CRAIG from Idaho, Senator ENZI from Wyoming, and Senator BAUCUS from Montana, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for himself, Mr. CRAIG, Mr. ENZI, and Mr. BAUCUS, proposes an amendment numbered 2133.

Mr. DORGAN. 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 restrict enforcement of the Cuban Assets Control Regulations with respect to travel to Cuba)

At the appropriate place in the bill, insert the following:

SEC. ____. (a) None of the funds made available in this Act may be used to administer or enforce part 515 of title 31, Code of Federal Regulations (the Cuban Assets Control Regulations) with respect to any travel or travel-related transaction.

(b) The limitation established in subsection (a) shall not apply to—

(1) the administration of general or specific licenses for travel or travel-related transactions;

(2) section 515.204, 515.206, 515.332, 515.536, 515.544, 515.547, 515.560(c)(3), 515.569, 515.571, or 515.803 of such part 515; or

(3) transactions in relation to any business travel covered by section 515.560(g) of such part 515.

Mr. DORGAN. Mr. President, I offer this bipartisan amendment on behalf of myself, Senator CRAIG, Senator ENZI, and Senator BAUCUS. It is an amendment that has been considered previously, and considered successfully by the Senate, but it has not made it into law because of problems in conference committees. It deals with the issue of restricting the rights of the American people to travel to Cuba.

As you know, we now have a situation where the American people are not free to travel to Cuba. We are free to travel to China, a Communist country. We are free to travel to Vietnam, a Communist country. We are free to travel to North Korea, a Communist country. We are not free to travel to Cuba, however. The reason for that is Fidel Castro has been sticking his finger in America's eye for a long while. It is a Communist country, a government that causes a lot of problems for our country, and the decision was made some long while ago that we are going to somehow punish Fidel Castro by restricting the American people's right to travel to Cuba.

We also, for 40-some years now, have had an embargo with respect to the country of Cuba. For most of that time, we also prevented American farmers from selling food to the country of Cuba. I have always felt it is basically immoral to use food as a weapon and to prevent the selling of food to the Cubans. Canadians sell food to the Cubans. European farmers sell food to the Cubans. But we could not; that is, until then-Senator Ashcroft from Missouri and I offered an amendment on the floor of the Senate that opened, just a crack, that embargo so that we are now able to sell some food into the country of Cuba.

We have sold about $1 billion worth of food since that amendment of ours became law. Even now, the administration is trying to shut down that ability of farmers to sell food into Cuba, by dramatically changing the legal definition of the term ''payment of cash in advance'' that is in the law, something the Congressional Research Service believes is inappropriate for the administration to do. With this change of definition they are actually requiring the payment for the food products our farmers would sell into Cuba to be made before the food is even shipped. That is not the way commerce works, and yet they are doing that to try to shut down the ability of American farmers to sell food into Cuba.

Nonetheless, we have sold $1 billion worth of food to the Cubans. It is the right thing to do. Withholding food and medicine as a part of any embargo is the wrong thing to do. Fidel Castro has never missed breakfast, lunch, or dinner because of our embargo. He has eaten just fine, thank you. It is poor, sick, and hungry people who get hurt with these kinds of public policies.

I put in this appropriations bill at the subcommittee level a provision that trips the administration's attempt to inhibit farmers from selling into Cuba. So I fixed that problem. That is in the bill as it comes to the floor. We had kind of a contentious discussion about that in the subcommittee, but I won. And again, on a bipartisan basis, we stuck that in the bill. It says to this administration: You cannot be doing these things that we believe are not legal to impede the ability of American farmers to sell food into the Cuban marketplace.

We have not, however, dealt with the issue of restricting the American people's right to travel to Cuba. Are we hurting Fidel Castro by prohibiting Americans from traveling to Cuba? I do not think so. All that does is slap the American people around by restricting their right to travel.

Let me show you a couple of examples, if I might. This young woman in this picture was in my office. This young woman's name is Joni Scott, a wonderful young woman. She went to Cuba. She went to Cuba to distribute free Bibles on the streets of Cuban cities. Joni Scott went to distribute free Bibles in Cuba. Why? She is a person of great faith, with a missionary spirit, and she wanted to take that faith and talk about that faith with the people of Cuba.

Well, guess what happened to Joni Scott. The U.S. government says you can't distribute free Bibles to the people of Cuba. You have to get a license from the State Department to go to Cuba, and they are not going to give you a license. She did not know that, of course. She simply went to Cuba to distribute free Bibles. The U.S. government slapped her with a big fine. Do you know who did that? The folks who are being funded in the bill, OFAC, the Office of Foreign Assets Control, deep in the bowels of the Treasury Department.

The people in OFAC are supposed to be tracking the financing of terrorism. They are the folks who ought to be looking at the arteries that control the money that finances Osama bin Laden, for example, and other terrorist organizations. But guess what. Those folks down in OFAC, the Office of Foreign Assets Control, have been spending their time tracking down American citizens who are suspected of taking vacations in Cuba—American citizens under suspicion of taking vacations in Cuba.

Well, they tracked Joni Scott down and slapped a big fine on Joni Scott, an American citizen, for trying to distribute free Bibles in Cuba. Apparently, they are not even embarrassed about it.

This is a picture of Sergeant Lazo, U.S. Army National Guard. He won the Bronze Star for bravery in the country of Iraq, fighting for this country. His children are in Cuba. One of his kids was very ill. After he finished his tour of duty in Iraq and was back in this country, he wanted to go visit his sick son. This United States soldier, a hero, having fought and won a Bronze Star in Iraq for his country, was told by his country: You might have been fighting for freedom in Iraq, but you don't have the freedom as an American soldier—you don't have the freedom as an American citizen—to go visit your sick child in Cuba. Unbelievable.

We voted on that here on the floor of the Senate. The only way I could get that up for a vote was to require suspension of the rules, which takes 66 votes. I got 60 votes. It fell short. So this man has never been allowed to go to Cuba to visit his child.

There is an epilog to this. His children are going to come here for a brief visit. The Cuban Government has approved that. But the U.S. Government won't give him the freedom to travel to Cuba to visit his children.

I could talk about Joan Slote. Joan Slote answered an ad in a bicycling magazine to take a cycling trip to Cuba. Joan was 75 years old. She was a cyclist and she wanted to go on a bicycling tour with a Canadian bicycling group. She did. She came back and found out her son had brain cancer. She didn't get her mail on time and didn't see that the Federal Government was trying to fine her $10,000 for having traveled to Cuba to ride a bike. Because she was attending to her son, she didn't get the letter from the Treasury Department, so they decided they were going to try to slap an attachment on her Social Security check.

This is America? I don't think so. We should restrict the freedom of the American people because we want to slap around Fidel Castro? How about deciding we are not going to restrict the freedom of the American people. If you want to bring a different kind of government to Cuba, you do it through trade and travel. That is what we argue in regard to other countries. This administration and past administrations have said that the way to advance the interests toward democracy and greater human rights in Communist China is through trade and travel. The way to

advance the interests toward greater human rights and democracy in Communist Vietnam is through trade and travel. Cuba? No, we have to restrict the right of the American people to travel to Cuba. And if they do, track them down. There is a little agency, this arthritic agency in the Department of Treasury, called OFAC. They have more people in that agency tracking American citizens who are suspected of going to Cuba than they have searching for the financial links that are supporting Osama bin Laden's terrorism. Isn't that unbelievable? I have half a notion to offer an amendment to get rid of OFAC. We have all these acronyms around here. All I know is, these are people sitting someplace in the basement of the Treasury Department trying to figure out, through lists of names, whether somebody might have gone to Cuba. And God forbid they brought a cigar back. Let's double the fine.

In fact, even more Byzantine, last year OFAC sent people to airports around the country to train Border Patrol and Homeland Security agents on how to intercept Americans who were suspected of visiting Cuba. I looked through the list of what they recovered. The most ominous thing they recovered was carbon dioxide used to make seltzer water. They did pick up a couple cigars and some ordinary cold medicine. But they certainly took some resources away from Homeland Security that probably ought to have been looking at terrorist threats so they could track down Joni Scott who wants to deliver Bibles on the streets of a city in Cuba.

There was also the disabled sports team that participates in marathons using artificial legs and in wheelchairs. They planned to participate in the Havana Marathon and then distribute racing wheelchairs and handcycles to Cuba's disabled athletes. Except OFAC said that our team couldn't go. These disabled Americans were told, no, you can't go. That is unbelievable.

We will have a vote on this. The President will threaten a veto of the bill if it is in the bill, and we will have people around here scratching their heads and thumbing their suspenders and saying: How should I vote on this?

How about a simple vote that represents a little bit of common sense, just a smidgeon. Go to any café in America, have a cup of coffee and ask somebody, do you think it is a good idea that we ought to slap around the American people and go investigate them and chase them down and slap them with a $10,000 fine because they joined a Canadian bicycle tour of Cuba? Or do you think we ought to say to a veteran who earned the Bronze Star for heroism in Iraq that when you come back to this country, you have all the freedoms of an American except you don't have the freedom to travel to Cuba to see your sick son? We know what the answer is. If we have enough people around here with the courage to vote the right way, to use a smidgeon of common sense—I am not asking everybody to use all the common sense, just a smidgeon, this just requires a blink—to vote the right way, maybe we will get something done.

This isn't about Democrats or Republicans. It is about public policy that makes sense for this country. If something is happening that is basically ''dumb,'' we ought to fix it. This makes no sense. This policy is at odds with our entire foreign policy with respect to other Communist countries. Can you imagine today if I proposed having the Cuba policy with respect to China and Vietnam? We would say to those Americans, you can't travel to China. Why? Because we don't like the Chinese Government, so you can't go there. Does that make any sense? Do you think that would be in our best interest? Would that represent good foreign policy? The answer is no.

We have advocated that the best way to move these countries toward greater human rights and greater democracy is through trade and travel. It would be nice if the only voice Cubans are hearing would not be Fidel Castro but, in fact, Joni Scott or Joan Slote or a couple from Dubuque who might be vacationing in Havana. It would be nice if the Cuban people would hear those voices as well. They do not now because they are prohibited as a result of American law. It is a law I aim to change.

I offer this amendment with my colleagues, Senators CRAIG, ENZI, and BAUCUS—two Republicans, two Democrats. This is not about partisanship. It is about doing the right thing. My hope is this amendment will see a successful vote. I understand there will be some sumo wrestling between now and when we get a vote, because no one ever wants to have a vote on this. There will be all kinds of contortions going on to find a way to avoid having a vote on this. But it is perfectly germane and relevant. It is a restriction on funding. My expectation would be before the bill gets off the floor, we would have a vote on this. I hope a sufficient number of colleagues on both sides of the aisle will decide to vote for it and we can get this done finally.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I support the amendment offered by my friend from North Dakota. He has made an excellent case for this amendment. I want to note that I am a cosponsor of bipartisan legislation introduced earlier this year that would allow this travel between the United States and Cuba.

Current policy with regard to Cuba, as enforced by the Treasury Department's Office of Foreign Assets Control, permits travel to Cuba today only with permission in the form of a license from the Treasury office for certain reasons such as visits to relatives or journalism or religious or humanitarian purposes. According to Treasury documents, between 1996 and 2003, about a third of Cuba travel cases opened for investigation were referred for civil penalty enforcement action.

As the Senator from North Dakota said, these typical penalty assessments for unauthorized travel range from $3,000 to $7,500. That is preposterous. For the last 40 years, the United States has maintained this isolationist position toward Cuba, and the current regime has been there the entire time. I believe, as the Senator from North Dakota so eloquently stated, that permitting travel to Cuba will help demonstrate to Cuba's citizens what a democracy is all about.

I tell my colleague that I had a young group of baseball players who went through the entire rigmarole as a young team to go to Cuba a number of years back. They had to go through an entire process. It was amazing what they had to go through to go down and participate in a Little League team playoff with a number of players from Cuba. I had them come back and visit with me when they returned. They wanted to thank me for helping them get through this process. I sat there and listened to them as they told me that they actually lost every single game. Finally, it was so lopsided that the Cuban young boys and they got together and decided, this is ridiculous. We are just losing. So they intermixed their teams, half Cuban and half American, and finished the playoffs that way. What a great thing for democracy. These young people showed to all of us exactly what we want happening in Cuba, that we can sit down, a group of 12-year-old boys, and learn how to get along and to be able to promote some real important values.

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

Mrs. MURRAY. I am happy to yield.

Mr. DORGAN. I am wondering if that wasn't under the old rules. The new rules have been tightened up dramatically by administration edict. Under the new rules, teams such as that in most cases would not be able to visit Cuba.

Mrs. MURRAY. The Senator is absolutely correct. This was about 10 years ago. Since that time, if these young kids were to come today to my office to ask for help, they would not be able to go and do it. What a way to dampen the enthusiasm of young boys in our country. It is telling them that democracy is not about conversations and learning and education and participation. I think that is a negative message. I appreciate the Senator's offering the amendment. I know the administration has issued a veto threat on this bill if this provision is allowed to be included. I say that veto threats have been made on other provisions in this bill. I don't see any reason why the Senate should not go on record and state its view. It is time to lift the travel restrictions on Cuba for all the reasons the Senator from North Dakota has outlined today. I hope we will

get to a vote and be able to move forward on this legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, let me finally show the chart I mentioned. I have many others. OFAC, Office of Foreign Assets Control, down in the bowels of the Treasury Department, is supposed to be tracking terrorists. Here is what OFAC did. These are disabled marathoners. They trained and trained. In fact, as I understand it, these folks even had airline tickets, and they had everything all set. But were they allowed to go to the international meet in Havana? No. No, they were turned down by our country because you don't have the freedom to do that. To say that these folks were disappointed is an understatement. They might wonder about whether we have freedom in this country, when we don't have the freedom to travel to this Cuba. Why? Because we don't like its leaders.

Look, there are many countries that have leaders I am not particularly fond of. I don't want to restrict the right of the American people to travel there. In addition to Joni Scott and disabled athletes and so many others, the stories now are unbelievable. In the last 3 years, this has been laced up tight, even for folks with close relatives. I can tell you of people whose parents were dying, on their deathbed, 3 days away from dying, and their children in this country were not allowed to go see their mother or father in Cuba.

I won't put up the picture of the guy from the State of Washington whose father died, and his last wishes were that his ashes be dispersed on the grounds of the church he served as a pastor in Cuba. So a compliant son, after the death of his father, said: I want to do that. It was his last wish. He took his dad's ashes and went to Cuba and went to the church and distributed his father's ashes on the grounds of the church his father had ministered at for many years. Then this country's Government tracked him down and tried to slap a big fine on him for doing it. Unbelievable. We can do better than that. Our country doesn't deserve this sort of nonsense.

I appreciate the support of the Senator from Washington. As I indicated, this is bipartisan. It is not about Republicans or Democrats. It is about what is thoughtful and what is thoughtless. Let's choose the thoughtful approach for a change.

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

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

AMENDMENT NO. 2063, AS MODIFIED

Mr. KENNEDY. Mr. President, as I understand it, there is a general agreement among the leadership that the time between 1:30 p.m. and 4:30 p.m. be equally divided between myself, who offered an increase in the minimum wage, and the Senator from Wyoming, Mr. ENZI, who has offered a different approach. We will have an opportunity to control the time in that way.

Mr. President, I yield myself what time I might use.

At 4:30 p.m., we will have an opportunity to vote in this body on whether there ought to be an increase in the minimum wage, a minimum wage that has not been increased over the last 9 years. I am very hopeful that we will vote in this body in support of the proposal I have before the Senate which will increase the minimum wage by $1.10. This is the figure that was included in the Republican alternative of over a year ago. The Republican alternative had additional provisions, and we will have an opportunity to talk about those proposals.

For the information of those people who might be listening to the debate, here is our amendment. It is 2 pages long, and it provides an increase in the minimum wage of $1.10. This is the Republican proposal, which is 87 pages long, which will change the whole concept of the minimum wage and effectively eliminate coverage of the minimum wage for up to 10 million Americans.

The increase in the minimum wage is not complicated. We increase it $1.10. We do it over a 2-year period. It is all in the 2-page amendment I have offered.

There is an alternative, which is the Republican alternative, which basically undermines, in a very significant and important way, the coverage for minimum wage workers and effectively eliminates coverage and protection, even for minimum wage workers.

We will have a chance for this body to make a decision as to whether they want to see those workers in this country, who have been left out and left behind, get a modest bump in their income.

I offered this measure on this legislation because this is the vehicle which carried the increase in the cost of living for Members of the Congress and Senate. It seems to me, if we were going to vote on that, we ought to vote on an increase in the minimum wage. It is the judgment—and one I support—that Members of Congress will not take a cost-of-living increase in their pay this year. We defer that increase.

The fact remains that over the last 9 years, the Congress has increased its pay by $28,000 on seven different occasions. On seven different occasions, it has raised its salary, but we have not increased the pay for those who are at the lower end of the economic ladder who are making minimum wage. I think that is absolutely unconscionable. We will have an opportunity this afternoon to find out whether we are going to do that. In the institution that has raised its salary $28,000 over the last 9 years, we will have an opportunity to see whether we are going to increase annual income by $2,300.

This chart is an indication of the tradition of the Senate since the increase in the minimum wage.

This demonstrates very clearly the increase in the minimum wage. The initiation was by President Roosevelt back in the 1930s and then Harry Truman increased it and then Dwight Eisenhower, a Republican, increased it. The history of the increase in the minimum wage has been bipartisan. Dwight Eisenhower increased it. President Kennedy increased it; President Johnson; President Ford, a Republican, increased it; President Carter increased it; President Bush 1 increased it and President Clinton. So this has been bipartisan.

It is difficult for me to understand how the increase in the minimum wage has ended up as a partisan issue. It has been bipartisan. The reason it has been bipartisan is because of whom the minimum wage affects. The fact is minimum wage workers are men and women of dignity. They are hard workers. They are the men and women who clean out the buildings for American commerce. They help and assist our schoolteachers in schools all over this country. They work in our nursing homes to provide help and assistance for the frail elderly, the elderly who have sacrificed so much for their own children and have done so much to make this a great nation. Many of them are served by the minimum wage.

First, these are men and women of dignity, working hard, more often than not having two or even three jobs, trying to provide for their families and having an increasingly difficult time to make any ends meet, and we will get to that.

This issue primarily affects women because about 65 percent of all minimum wage workers are women. The majority of the women who earn the minimum wage have children. So it is a women's issue, it is a children's issue, and it is a family issue because we have families, heads of household in many instances, single moms or single dads, trying to provide for their children, working one or two or even three jobs, trying to make ends meet. So it is a women's issue because so many of the minimum wage workers are women and a children's issue because those children's lives are affected by obviously the circumstance of the one who is providing for them. It is a civil rights issue because so many of these jobs are open to men and women of color. So it is a civil rights issue, a family issue, a women's issue, a children's issue, but most of all it is a fairness issue.

The American people understand fairness. They understand if someone is going to work 40 hours a week, 52 weeks of the year, they should not have to live in poverty. Republicans

have understood that, Democratic Presidents have understood it, and I cannot for the life of me understand why our Republican friends on the other side of the aisle, when we have changed our increase in the minimum wage from $2.10 down to $1.10 over the next 2 years, refuse to be willing to accept it.

What is it that they have against working poor people, men and women who are trying to get the first rung on the economic ladder? What is it about it that is so offensive to this body that we do not give them an increase in the minimum wage and we give ourselves repeated increases? That is the issue. And at 4:30 this afternoon, this institution will have a chance to express itself.

The American people understand this. The American people understand the minimum wage. There are a lot of complex issues, and men and women across this country are working hard every single day. They have little time to spend trying to figure out a lot of different kinds of challenges, but they understand an increase in the minimum wage. They understand what difference this makes. They will have an opportunity to hear about it because this issue is not going away. No matter how this turns out this afternoon, the Senate, and most importantly the workers at the minimum wage, can be confident that I am going to continue to raise this as long as I am in the Senate. We will have an opportunity to vote on this repeatedly.

So we can find those of our colleagues who want to try and confuse the issue all they want with 87 pages, but this is an increase in the minimum wage which consists of 2 pages. That is what the vote is for this afternoon. Some of my colleagues want to rewrite the labor laws on this. Fine, let us get to it. But why are we doing that on this particular bill? Increase in the minimum wage, one can ask, why on this bill? Very simply, it was a good enough vehicle to increase the salary of the Members of Congress until yesterday when we neutralized it and it ought to be a good enough vehicle to provide some assistance to those on the first rung of the economic ladder. That certainly makes sense to me. That is not what the Republican alternative is about.

So we have seen that this has been historically something Republicans and Democrats, when they are at their best, have supported. Over a period of years, we have seen what has happened on the issues of productivity. We hear frequently that we cannot afford an increase in the minimum wage unless we are going to have an increase of productivity. It is an old economic argument we do not want to add to inflation, but if we have an increase in productivity, of course, then we can consider an increase in the minimum wage because it will not have an inflationary impact in terms of the economy.

All right. Let us take that argument and see what has happened in terms of productivity over the period of recent years. We have seen now, over the period of the last 40 years, productivity has gone up 115 percent. Notice that going back into the 1950s, the 1960s, the 1970s, the minimum wage and productivity lines were always intersecting because we kept the increase in the minimum wage and productivity together. That was an argument that was made. There is plausibility to it.

If that argument was good enough for the 30 or 40 years that we first had the minimum wage, look what has happened in recent times. Workers have increased their productivity 115 percent, but the minimum wage has declined some 31 percent. So one cannot say we cannot increase the minimum wage because we have not had an increase in productivity. So this is certainly one of the factors.

This chart is enormously interesting because it shows that Americans' work hours have increased more than any other industrial country in the world. Look at this chart. This is an indication of the changes in hours worked per person over the period of 1970 to the year 2002. Actually, in a number of the countries in Western Europe, the percent has gone down, but we have seen in Australia, Canada, and most of all in the United States, it has gone up. Americans are working longer, they are working harder, they are producing more, and one would think that their paychecks would reflect it, at least at the lower economic end, or in all areas it ought to reflect it, but, no, it does not work that way. We refuse to give that kind of a recognition.

Unfortunately, when the President was asked about the challenges that people working for the minimum wage face, the individual conversation between the President and Ms. Mornin, who is a single mother of three, one of whom is disabled, Ms. Mornin said this was on February 4, 2005, in the Omaha Arena in Omaha, NE—I work three jobs and I feel like I contribute.

President Bush: You work three jobs?

Ms. Mornin: Three jobs.

President Bush: Uniquely American, isn't it? I mean, that is fantastic that you're doing that. Get any sleep? (Laughter.)

That is an indication that there are people in this city who just do not understand what is happening to people who are earning the minimum wage level. They are not getting any kind of recognition. People do not understand what their particular challenge is, but they ought to. I think more Americans do today than they did several months ago.

One of the most moving covers of any magazine was this September 19 cover of Newsweek. It shows a child with tears on her face: Poverty, race, Katrina, lessons of a national shame.

In this rather extensive article about the enormous tragedy that took place in the gulf and in New Orleans, it talks about the other America: An enduring shame Katrina reminded us, but the problem is not new. Why a rising tide of people live in poverty, who they are, and what we can do about it.

There are the striking photos of people who were left out and left behind. The whole article is about hard-working individuals in that region of the country down in Mississippi, Alabama, and Louisiana. Suddenly, the Nation was focused on their particular plight because when the floods came to New Orleans, we saw the tragic circumstances that they were subject to, the lack of preparation, the lack of organization, and the lack of outreach to them for so many days. These people are still struggling. Along the gulf coast, many of those communities were absolutely obliterated.

I had the opportunity, with several of my colleagues, to visit those areas 3 weeks ago or so and to meet a number of the individuals, not the particular persons who are outlined in this article but individuals whose lives were absolutely the same. We find so many of our fellow Americans who are living in poverty. We find increasing numbers of Americans living in poverty. There are 5 million more people living in poverty. I have a chart that shows it, but it certainly does not tell the story that one sees when they visit the gulf area and visit New Orleans and meet some of these families or even visit with them.

In my own State of Massachusetts at the Otis Base, where we had several hundred of the evacuees who came there, many of them rescued very late in the whole process because they had remained in their homes, some of them trying to help elderly and disabled people, and more than half of whom had arrived at Otis still in their damp and wet clothes, and they received an enormously generous and warm welcome, which they have expressed to our fellow citizens in Massachusetts.

Their stories and their lives are stories of lost hope, lost homes, lost jobs, lost health insurance, lost every aspect, tangible aspects of their lives, separated families, and lost everything but their faith and a sense of hope, a desire to try and get back on their feet. I ask, How in the world is someone going to get back on their feet when they are getting paid $5.15 an hour? How are they going to get back on their feet?

All they have to do is read through this magazine and read the life stories of these individuals who work and struggle in two and three different jobs. There is the case of Delores Ellis: Before Katrina turned her world upside down, this 51-year-old resident of New Orleans' Ninth Ward was earning the highest salary of her life as a school janitor, $6.50 an hour, no health insurance, no pension, and then she bounced around minimum wage jobs.

Ellis said: I worked hard all my life. I cannot afford nothing. I am not saying that I want to keep up with the Joneses, but I just want to live better.

Well, one of the ways that she can live better is an increase in the minimum wage. We cannot solve all of her

problems, but we sure can provide some assistance by increasing her minimum wage. It is as simple as that.

Americans can understand that. ''What can we do?'' they say. Well, there are a lot of things that have to be done. We cannot solve all of the problems, but we have to start someplace, and we are starting with an increase in the minimum wage.

Here are the figures: 5.4 million more Americans in poverty over the period of the last 4 years. This is a fierce indictment, and we are going to see these figures have even expanded as a result of the terrible effects from Katrina.

This is what has happened. As we look over history, we see at other times and other Congresses, when Congresses were controlled by Republicans and Democrats—look here, from 1960 all the way through 1980, we have the minimum wage effectively at the poverty level. This is in constant dollars. This was over a period of some 30 years, Republicans and Democrats alike. We say if you work hard, want to work and work hard, you are not going to have to live in poverty here in the United States.

Look what has happened in recent years. Here were the last two increases we had in the minimum wage and here is the collapse again of the minimum wage in terms of its purchasing power.

What did our brothers and sisters in the Congress, what did Republicans and Democrats know then, over a 30- or 40-year period, that we do not understand now? What is it, so that we are so unwilling to see a bump, a small bump of an increase in the minimum wage?

Oh, no, we have an 85-page alternative, they will call it. This is an alternative filled with what we call poison pills, filled with taking people out of coverage, filled with new changes in overtime legislation to limit people from receiving any overtime.

We know the importance of overtime to workers. Many of them use that overtime pay they receive to put away to educate a child. Here we have an attempt to undermine overtime for workers.

An argument is sometimes made that we cannot afford a minimum wage because it will be an inflator in terms of our overall economy. Our economy is somewhat uncertain at the present time, and therefore we cannot afford to have an increase in the minimum wage because it will have an adverse impact in terms of our economy.

This is an interesting chart: Increasing the minimum wage to $6.25 is vital to workers but a drop in the bucket of the national payroll. All Americans combined earn $5.7 trillion a year. A minimum wage increase to $6.25 would be less than one-tenth of 1 percent of the national payroll; one-tenth of 1 percent.

You say this is an inflator; if we increase this to $6.25, this is going to add to the problems of inflation we are facing. Here it is, it is less than one-tenth of 1 percent.

Look at what these working people are faced with. There is an increase in cost of gas of 74 percent. You ask so many of those people down in New Orleans why they were left trapped in New Orleans, and so many will tell you they were trapped because they couldn't afford a car or they couldn't afford the gasoline to get out, and therefore they were trapped. A number of them lost their lives. Others lost everything, because we have seen the increase in the cost of gasoline, 74 percent; health insurance is out of sight for any of these families, up 59 percent; housing and rental gone up through the roof, and college tuition—it has gone up 35 percent, effectively eliminating those possibilities to so many.

Now over this coming winter here, we have now at the end of October a chance to raise the minimum wage $1.10, the figure the Republicans had suggested last year. Here we have what is going to happen in our region of the country. In the colder region—not only the Northeast but in many of the colder regions—we are going to see a 50-percent increase in the cost of natural gas for heating, we are going to get about a 27 to 30-percent increase in the cost of home heating oil, and about an increase of 5 to 7 percent in the cost of electricity. Our part of the country uses 40 percent natural gas, 40 percent heating oil, and this is the rest. We see what is happening in the home heating oil.

Now we can say at least Congress is going to help some of these families because they are going to recognize the explosion of these costs of heating and keeping warm in these homes. In many instances it is as important as their prescription drugs and the food they eat. They are going to have to make some hard choices. This is the reality. We are saying at least give them $1.10. You are going to find out if any of the minimum wage workers, maybe working a couple of jobs and maybe with a home up in New England—their heating bills are going to go up $600 or $800 or $900 over the course of the winter.

What is Congress doing? Basically it authorized the $5 billion to try to help provide some relief. We hear the explanation for the increase in these costs is because of what has happened to refineries in the gulf. That is an act of God. We couldn't control it. So those refineries are down. Now we find out that the gas and heating oil have gone up and it is going to be particularly harmful to needy people, to poor people, to people earning the minimum wage.

Are we giving them any help and assistance? The answer is no to that. We are not seeing any increase in the home heating oil program, the LIHEAP Program. We are not seeing any increase in that.

They are getting the short shrift every single way: No help and assistance in facing a cold winter, no help and assistance we can provide by approving a $1.10 increase.

I see my friend from Iowa here on the floor. I want to point out to him, as someone who has been such a strong supporter on these issues, here is a two-page increase for the minimum wage in $1.10. Here is the Republican alternative, 85 pages. It rewrites the whole of labor laws, 85 pages. If you are going to be against it, why don't you just be courageous enough to say no?

No, no, they want to say: Oh, no, we have a real alternative in here. We are going to exclude a number of people who are covered with the minimum wage. That is where we are going to start, so they are not even going to get the $5.15 an hour. And we are going to make many people work overtime and not get overtime pay. Oh, yes, we will do that.

You know what else, I say to Senator HARKIN. There are provisions in here that say if you are an employer and you effectively violate what they call a paper report in here, you will get a nonmonetary fine. You will get no monetary fine, even though that might be an oil spill, that may be contaminated food. Why are we pulling that here in the Senate this afternoon? What is it about it that we suddenly know so much about that particular issue here on this particular legislation?

If you are going to be against $1.10, be against $1.10. But they have all of the other shenanigans in that legislation that are going to provide additional short shrift for the neediest people.

I will be glad to yield some time to my friend and colleague from Iowa.

The PRESIDING OFFICER (Mr. SUNUNU). The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, I thank the ranking member for his leadership on this issue and so many issues that affect working families in America. Senator KENNEDY has been trying for years to get some measure of justice for the working poor in this country, trying to get the minimum wage raised. Senator KENNEDY has been out here each of the last 7 or 8 years trying to get this done. Every year the other side turns him back. But this year we cannot turn him back. We have to adopt this increase, this modest increase in the minimum wage.

We debated this amendment by Senator KENNEDY last March on the bankruptcy bill, to raise the minimum wage. It failed on a largely party-line vote 46 to 49.

We are back at it again. You would think after what we saw with Hurricane Katrina, where the mask was ripped off of George Bush's America, an America where the poor are out of sight and out of mind, you would think that Katrina brought home to us that they are very much present all over this country. By the poor, we don't mean those who are just not working, who are loafing or sloughing off; these are people who work. They go to work every day. They work hard. They try to raise their families. Yet, our minimum wage law says they are only worth $5.15

an hour, the same wage it was over 8 years ago. We have not raised it in 8 years.

Thirteen percent of our people are living in poverty. I say to my friend from Massachusetts, there is always this talk about all the people who got off of welfare in the last decade. They may have gotten off of welfare but they didn't get out of poverty. They are the working poor. They are working every day but they are not out of poverty. They may be off of welfare but they are not out of poverty.

You would think those of us here in the Senate who have had our pay increased several times over the last 8 years to adjust for the increased cost of living would at least raise theirs. Right now minimum wage workers are earning $10,712 a year. I don't know if any of you have ever read the book by Barbara Ehrenreich called ''Nickel and Dimed,'' where she went out and tried to live on minimum wage jobs and what it was like. I commend it for your reading. It will give you an idea of what people go through as they try to work and raise their families.

We keep hearing the age-old argument. I have heard it every time in the last 30 years I have served in both the House and Senate every time the minimum wage comes up: These are teenagers flipping hamburgers; nobody else makes that.

But we know what the facts are. Facts are stubborn things. We have a lot of doubt—don't trust me, trust your own Department of Labor. Trust the one that is run downtown right now. Here is what they will tell you: 35 percent of those earning the minimum wage are their family's sole breadwinner—35 percent. It doesn't sound like a teenager flipping burgers to me.

Sixty-one percent are women and one-third of those are raising children—61 percent of those are women. This is a women's issue, too, when you think about it. Most of them are stuck. Many of them are single parents. Many of them are not receiving child support, and they are doing their darnedest to raise their kids. They are working and they are making $5.15 an hour.

Last March, when we voted on the Kennedy minimum wage increase, there was talk that the Senate Finance Committee would move a markup of a welfare reauthorization bill. I heard the words on the other side of the aisle—let's not do it now; we will wait for welfare reauthorization. We have been waiting. There is no welfare reauthorization bill. There is none.

So now is the time to do it. We cannot wait any longer and neither can the working poor. The minimum wage needs to be raised to a level that is not just a subsistence wage but a wage that respects work, honors work, and rewards work at a reasonable level.

Listen to this: Franklin Roosevelt, when we passed the first minimum wage law in the 1930s and Republicans were opposed to it—I assume that comes as no surprise to anyone here—President Franklin Roosevelt said:

> No business which depends for existence on paying less than the living wages to its workers has any right to continue in this country.

He went on to say:

> By living wages I mean more than a bare subsistence level. I mean the wages of a decent living.

President Franklin Roosevelt had it right. America can do better than what we are doing right now, a poverty wage of $5.15 an hour.

Senator KENNEDY went over some things I think bear repeating when you look at what is happening.

I was in Iowa this weekend. What I am hearing more than anything else is the cost of natural gas prices, heating oil prices double. I heard testimony from a man that his heating oil prices have doubled.

Low-income people have to go pay their heating bills.

There is another little quirk in the law. The Senator from Massachusetts mentioned the LIHEAP program. We need to put money in the LIHEAP program. There is a little quirk in the law that even I didn't know about, and I have been working and supporting LIHEAP for all these years. If you are cut off of your supply, you are then ineligible for LIHEAP. Imagine that.

Let us say you get heating oil. It is a deliverable commodity. It is not like a natural gas pipeline. Let us say you can't pay your bills. You have some bills left over, you can't pay them, and they refuse to deliver heating oil to your home. You are not now eligible for LIHEAP. That is right. You have to get the money upfront.

That is what we are trying to get, more money for LIHEAP. Yet the other side will not allow us to do so. I had testimony from a young mother who got LIHEAP in this past year. You hear these stories. They tear your heart out. She is a single mother with a small baby. She said because they ran out of money, she put her baby in the bathtub in the small bathroom with a space heater during the day. Then at night, she puts her baby in two snowsuits and covers her up hoping that they would be warm all night as she put her in bed next to her.

Real people live this way. It is hard for some of us to imagine. Real people live that way. They are making the minimum wage. That is what she was making, minimum wage.

If you look at the price of gas, up 74 percent; health insurance, up 59 percent; housing, up 44 percent; college tuition, up 35 percent, yet the minimum wage is stuck where it was 8 years ago. Who can afford to pay all of these increases? Obviously, if you are one of these big corporate CEOs, here is where you are, up here. Here is where workers' wages and benefits are, down here.

Listen to this. I don't mean to pick on any one person. Mark Hurd took over as CEO of Hewlett-Packard in March of this year. He may be a fine, decent person. I do not know. I am casting no aspersions on him. I am just talking about what he got: an employment agreement worth $20 million in cash, stock, and perks. Included in his pay package was a $2 million signing bonus, a $2.7 million cash relocation allowance, free housing for a year, and a 4-year mortgage interest subsidy.

With housing costs up 44 percent in the last 4 years, imagine what it would mean to a low-income family to have a year's worth of rent or mortgage-free housing. Imagine that. But Mr. Hurd, who got $20 million, got that.

In 1999, Mercer Human Resources Consulting began tracking the proxy statements of 100 major U.S. corporations. In 2004, according to Mercer's survey, CEO bonuses rose 46.4 percent to a median of $1.14 million, the largest percentage gain and the highest level in the last 5 years. CEOs in this study enjoyed median total direct compensation of $4,419,300 per year. That CEO compensation figure in excess of $4 million is 160 times the income of the average U.S. production worker last year.

All we are asking for is a paltry $1.10 increase in the minimum wage. You would think this would be adopted unanimously in the Senate.

So you can see the ''suits'' are taking care of themselves in our society. But the working poor, forget about it. They are left on the side of the road in the shadows.

President Bush in New Orleans after Katrina said: ''We should confront poverty with bold action.''

Where is the bold action? Where is the strong voice in the White House asking this Congress to step up to the plate to increase the minimum wage and do what is right. You have just the opposite. We have the White House supporting the Republicans in the Senate saying no to this small increase in the minimum wage.

I think it is unconscionable. Have we in the Senate finally joined the Neiman Marcus crowd? Have we become so totally insulated from real families who shop at Wal-Mart and Kmart? Have we become so insulated from families who struggle to get by day after day that we can't even see the necessity of raising the minimum wage $1.10 an hour? Is that what we have become? I certainly hope not.

I am sorry that somehow it becomes a partisan issue. It should not be a partisan issue. I would have thought the other side would join and say, yes, we have to do this together. We wouldn't be standing here having this debate.

I urge my colleagues to support the Kennedy amendment. It is the right thing to do. It is long overdue. I hope when people come to vote they think of those families out there who have nowhere else to turn.

If we don't increase the minimum wage, they are going to be colder this winter, they are going to be sicker, they are going to go to the emergency

rooms, and we will pick up that tab, too. Their kids are going to be less healthy. They will not learn as well in school. Anxiety levels will rise and families will disintegrate.

To me, raising the minimum wage is a small price to pay for domestic tranquility, to say to those 37 million Americans out there—as I said, most of whom are women, many of whom raise families on the minimum wage—we can do better, and we have to do better.

I urge my colleagues to support this amendment. I thank my leader and my colleague from Massachusetts, not only for today but for all of the battles he has waged for so many years on behalf of basic justice and fairness for America's working families.

I thank the Senator from Massachusetts for yielding me this time. I thank him for his great leadership on this and many other issues of basic justice.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield such time as the Senator from New York may use.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mrs. CLINTON. Thank you, Mr. President.

Mr. President, I find it almost hard to believe that we are on the floor of the Senate arguing over the necessity for an increase in the minimum wage.

I am strongly supportive of Senator KENNEDY's amendment, and proud to cosponsor it. I urge my colleagues on both sides of the aisle to vote in favor of it and to oppose the second-degree amendment.

This amendment does not go as far as I or Senator KENNEDY and others would have preferred. It raises the minimum wage to $6.25 an hour, far short of the $7.25 an hour that Senator KENNEDY and I and 48 other Senators proposed in March. But we could never get a vote on that. This amendment, however, should have even greater support than the 50 cosponsors we had last March. It should pass unanimously out of this body. Fifty Senators just last March supported an increase to $7.25. And now we have to cut the increase with a hope that we can get, No. 1, the vote we are hoping to get on this appropriations bill, and, No. 2, an overwhelmingly bipartisan passage.

Since March, we have seen even more evidence as to why this is critical. At a time when working families are struggling to make ends meet, it is critically important that we do something.

Senator KENNEDY has called this amendment a downpayment on what is truly needed. Today, the Federal minimum wage is $5.15 an hour, an amount that has not been increased since 1997.

Unfortunately, the same cannot be said of the cost of living. Over the past 3 months, according to the Federal Department of Labor, inflation has increased more rapidly than any time since early in 1990.

We also know the poverty rate is going back up. The fact is, there has not been one net new private-sector job created in the last 4½ years.

This chart, which should be a rebuke to all of us, shows that we now have increased the number of people living in poverty. In 2000, we had 31.6 million people, which was far too many. Now we are up 5.4 million. Why? Because the economy is not creating jobs, and many of the jobs that are in the economy are no longer paying wages that families can live on and can work their way out of poverty.

We know everything else has gone up. Across America, people are spending 74 percent more on gas than they did at the beginning of 2001. Heating oil prices are expected to rise by more than 50 percent this winter. Such rapid price increases will force consumers, especially poor working people, to cut spending on clothing, health care, and food so they can get to work and keep warm this winter.

These rising costs and falling wages are illustrated in this chart. Where heating oil is going up dramatically, the buying power of the minimum wage is going down. Of course, we are in the post-Katrina phase, which, lest we forget, demonstrated in stark terms how so many Americans live every day on the brink of economic disaster. Any setback becomes a major obstacle to being able to pay for gas, pay for food, pay for health care and prescription drugs, pay for tuition, pay for all of the necessities of life.

It is hard to stand with this amendment before the Senate and not wonder, when will the majority stop giving privileges to the already privileged? At what point is it too much? Never has a political party given so much to so few who needed it so little. And it never ends. We are more than happy to continue to provide tax breaks for the wealthiest among us while we cut the social safety net, while we refuse to raise the minimum wage. Shame on us. At some point, there has to be a recognition that we are tilting the scales dramatically against average Americans. The middle-class wages are stagnant. Health care costs are going up. The number of the uninsured is going up because people who work hard for a living are no longer offered insurance or cannot afford to pay what it costs. Pensions and retirement security are at risk. There is something wrong with this picture.

With all due respect to those who have a different economic philosophy, rich people did not make America great. I am all for rich people. Ever since my husband got out of office and got into the private sector, I think it is great. I never knew how much the President really liked us; he cannot give us enough tax cuts. I have nothing against rich people; that is part of the American dream. But with all due respect, it is not rich people who made America great. It is the vast American middle class. It is the upward mobility of people who thought they could do better than their parents.

For more than 100 years, we have worked very hard to make sure the deck was not stacked against the average American. Teddy Roosevelt understood that if we did not have a fair playing field, if people were permitted to monopolize capital and abuse labor, a lot of people would get rich, but the vast majority of Americans would never get ahead. So he began to agitate for and accomplish making sure we had a fair economic system.

As we moved through the 20th century, we saw adjustments made. Franklin Roosevelt understood that the hazards and vicissitudes of life strike any of us and that a fair and just society tries to provide a little help so that people overwhelmed by circumstances often beyond their control would be able to keep going, raise their children, and plan for the future. We put in a lot of Government programs to make sure we had a balance of power, a balance of power between capital and labor, between management and employees. And it worked very well.

The history of the economic prosperity of the American middle class in the 20th century is the greatest example of what can happen in a democracy where people's energies are freed so they can compete for themselves but within a framework of rules. I am very proud of the progress we made in the 20th century, and I am particularly proud of the last 8 years of the 20th century where 22 million people were lifted out of poverty, where we raised the minimum wage, where we said to people: You have to work, but if you work, we will make sure you and your children have a fair chance.

We have reversed that progress. It appears as though people are just sleepwalking through this Chamber and the Chamber on the other side of the Capitol. Don't we see what is happening before our very eyes? We are undermining the American dream. We are making it nearly impossible for people to believe that tomorrow will be better than today and yesterday.

These numbers speak for themselves. Look at this. The minimum wage no longer even lifts a family out of poverty. You can go to work 40 hours a week, you can clean the rooms and the toilets in a motel, you can serve the food in a restaurant, you can work in a small factory, you can make that minimum wage, and you cannot even get your family out of poverty. What kind of message does that send? The whole idea of America is if you work hard and you play by the rules, you will be successful, you will have a chance to do better.

Look at that chart. It speaks for itself. We have been on a steady slow decline. Even when we got a bipartisan agreement to raise it in 1997, we still did not get above the Federal poverty line.

What message are we sending to millions of hard-working Americans? I represent a lot of them. I represent

people who are working hard for a living. You see them on bicycles in Manhattan delivering food. You see them doing all the hard work, the janitorial services at night. In upstate New York, I see them as they get up every day and go to work and believe that they are doing what they should do. What message are we sending them? Too bad, keep working. Don't expect anything from us. We are too busy giving tax cuts to the wealthiest of Americans.

That is a choice that will be made by this Senate. As far as I can tell, it will be a choice to vote against the minimum wage and to vote instead for the second-degree amendment which is designed not only to defeat Senator Kennedy's amendment but to do even more harm to the paychecks of working Americans.

This is what I don't understand. The second-degree amendment denies more than 10 million workers the minimum wage, overtime, and equal pay rights by ending individual fair labor standards coverage and raising the threshold for which a business would be held accountable to 1 million from 500,000. In short, and let's make no mistake about this, the second-degree amendment would be the end of the 40-hour workweek. So we can go right back to the end of the 19th century because that is where we are heading. There are those, bless their hearts, who believe America was better off at the end of the 19th century, when you were told what to do, and you had to do it, and you did not have much of a choice about it. I don't agree with that. I am proud of the progress we made in the 20th century, but I am absolutely convinced some people are trying to head us right back there.

If it is the end of the 40-hour workweek and the end of the American weekend because there are no rules on overtime, that means a pay cut of $3,000 a year for the median-income earner and an $800 pay cut for those earning minimum wage. Now employees are already free to offer more flexible schedules under current law, but today if they come in and they tell an employee, ''Guess what, I need you this weekend, you are going to have to work'', they have to offer overtime when the work is more than 40 hours a week. The second-degree amendment would undermine that basic protection. So instead of making it easier for families to spend time together, we basically are going to tell workers that they have to do whatever they are told at risk of losing their job without any overtime pay or any other compensation.

The second-degree amendment also prohibits States from providing stronger wage protections than the Federal standard for employees such as waiters and waitresses who rely on tips. The amendment removes agency discretion and creates a safe haven for violators of a broad range of consumer, environmental, and labor protections by prohibiting Federal agencies from assessing civil fines for most first-time reporting violations and preempts States' abilities to enforce these laws.

In my State, we happen to think that some of those rules need to be enforced. James Madison said in the Federalist: If men were angels, there would be no need for a government. But we aren't, and we never will be, not on this Earth. The job of government is to help level that playing field, help right that balance. Otherwise, people are powerless to defend themselves, especially when they have to get up every day and go to work to keep body and soul together and food on the table, particularly if they are single parents trying to make do on minimum wage.

It is disheartening. We could have had an up-or-down vote on the minimum wage. If you want to vote against the minimum wage, vote against the minimum wage. But to introduce a second-degree amendment loaded with poison pills that are against workers, that are against fairness, that speaks louder than any words I could say in this Senate.

There will be a day of reckoning. We cannot continue to tilt the scales against the vast majority of Americans and not be held accountable in the political process. The mask has been ripped off of compassionate conservatism, and people see it for what it is—partisan politics to favor the rich. If that is what we are going to be fighting against in this Senate, I guess bring it on, because on that fight the vast majority of Americans, regardless of what party they claim, are on the same side. They want to make sure the deck is not stacked against them, that they have a fair chance to compete, and that their labor gets a fair return.

I hope our colleagues will rally in support of Senator KENNEDY's amendment and vote against the second-degree amendment. We should pass an increase in the minimum wage, and it should not come at the cost of denying basic rights to millions of Americans and turning the clock back to the 19th century, which is what it would do.

I yield the floor.

Mr. ENZI. I yield the Senator such time as he may consume.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from New Hampshire.

Mr. GREGG. Mr. President, as we speak in the Senate, sometimes we are caught up in hyperbole. I am certainly afraid that has been the case on the other side as they try to describe flextime. To say this is a return to the 19th century is a unique view of something which all Federal employees have the right to do today, which is to exercise flextime.

Why is flextime allowed for Federal employees? Because there are a lot of people who work in the Federal Government who would like to have the opportunity, if somebody in their family, for example, is getting married, to be able to restructure their workweek so that one week they will work more hours, and the next week, maybe the week their daughter or son is getting married, they work fewer hours so they can participate in the excitement of planning for that wedding.

There are a lot of people in the Federal Government who, when one of their family members, unfortunately, gets very sick and has to go in for an operation, want to be able to be with that loved one during that time of tremendous trauma. They want to be able to get to that hospital and not worry about not doing their job correctly at the same time. So they seek the opportunity of flextime, too.

Then there are other people who work for the Federal Government who have children who do exciting things. Maybe they are in plays. Maybe they are in bands. Maybe they are good athletes and in sports. Maybe they are not good athletes but sit on the bench, but they like to go to those games, they like to go to those plays, they like to go to those band recitals. Maybe they are a fair distance away, so they want to drive them, they want to take that extra Friday afternoon and take them out to that event because it is a big part of their life, a big part of their family, and they take advantage of flextime to do that so they do not undermine their ability to do their job.

Is that the 19th century way we deal with employees? What an outrage to make a statement like that. Maybe the Senator from New York has some unique view of the 19th century that says that when you give a family more time off to deal with family issues, that is counterproductive to having a strong family. Maybe we are not raising a village when we do that, but I sure think we are encouraging the strength of the family when we do that for our Federal employees.

What are we suggesting here? We are suggesting the employer and employee in the private sector have the right to reach the same agreement that the Federal employee has with the Federal Government; that over a 2-week period, an employer and an employee, only with the consent of the employee, only under a voluntary condition, without any mandate, and with significant safeguards so there cannot be any coercion, that employee and that employer, if they decide it is to the benefit of both of them to allow the employee to shift their workweek from a 40-hour week one week and a 40-hour workweek the next week to a 50- or 45-hour week one week and a 30- or 35-hour week the next week or something in between, they will have the right to do that. It does not undermine the 40-hour workweek. It encourages more productivity, and it gives people more opportunity to be home, in most instances, to participate in important events, some of them unasked for, some undesired such as health issues, and some very exciting such as weddings or children doing special things in school. Or it may simply be a young couple who wants to get away a little early some week in order

to enjoy the fact they are newly married. Or it could be any other multiple of personal events that might occur that causes somebody to say: I would like to work longer one week and less the next week so I can take advantage of that.

How can the other side of the aisle, in good conscience, and with a straight face, come to this floor and say that is some sort of coercive event, that is some sort of event that undermines the right of individuals and the labor force of America, especially when that right is given to all Federal employees and many State employees? The exaggeration is extraordinary. The hyperbole is excessive. The policy they are suggesting is 19th century. They are saying: You are going to work 40 hours this week, and you have to work 40 hours next week, and no matter how much you might not want to work under that structure, you cannot change because we know better than you know. I, the Senator from New York, know better what the employees' workweek in New Hampshire should be like. Or the Senator from New York knows better about the workweek than the people of New York.

Well, I happen to think that allowing people to develop some opportunities to structure their workweek so they can better care for their family, better assist their family's lifestyle, have a better quality of life—doing it all in the context of protecting the rights of the worker so they are not asked to work any more hours, doing it all in the context of a voluntary program, doing it all in the context of allowing the employee to make the decision, not the employer—I happen to think that is a pretty appropriate way to deal with somebody's work in relation to their lifestyle. I think that is a 21st century approach.

I think the other side's proposal is a 19th century approach. Or maybe that is too much hyperbole. Let me just say the other side's approach is misguided. I think our approach gives people the type of flexibility—that is why it is called flextime—in which most people would like to have the opportunity to participate. This is a good proposal.

It is especially good because it comes in the context of being the essence of the debate now. The Senator from Massachusetts has adjusted his amendment so the amount of increase in the minimum wage is essentially the same as the amount of the increase in Senator ENZI's bill. The issue of dollars relative to the wage increase is no longer a factor. That is no longer a factor. The only thing we are really debating about right now is giving small businesses some relief and allowing people flexibility in their workweek, which we give to all Federal employees, but for some reason the other side resists giving to people who do not work for the Federal Government and who are subject to the 40-hour work rules.

So I must say, with respect to the other side, I find it disingenuous for them to argue that it becomes a 19th century approach to say we would like people who are in the private sector to have the same rights as people in the Federal sector. People in the private sector should have the same rights as people in the State sectors. People in the private sector should have the right of their own volition, of their own initiative, protected by significant laws which avoid coercion, to choose to work longer one week and less the next week so they can do things such as participate in their family's lifestyle, whether it is a soccer game, a wedding, or whether it would be, unfortunately, some medical event, or anything else that is appropriate.

Mr. President, this amendment by the Senator from Wyoming is an excellent amendment, and in the context of the debate, it is especially excellent because, essentially, we are not fighting over increasing the minimum wage any longer in the two amendments. All we are fighting over is whether we are going to give small business a little more protection, a little more right to be productive and therefore create more jobs, whether we are going to give individuals the opportunity to have more flexibility and a better lifestyle.

Mr. President, I yield the floor and yield back the remainder of my time, to the extent I have any, to the Senator from Wyoming.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I have a question on time. How much time remains on either side?

The PRESIDING OFFICER. The minority has 24 minutes. The majority has 76 minutes.

Mr. KENNEDY. We have 24 minutes; is that correct?

The PRESIDING OFFICER. Twenty-four minutes.

Mr. KENNEDY. Mr. President, I yield 8 minutes to the Senator from Illinois.

Mr. DURBIN. Mr. President, I thank the Senator.

Mr. DODD. Mr. President, may I ask unanimous consent that I be allowed to follow the Senator from Illinois? I ask unanimous consent that I can speak for 7 or 8 minutes following the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Massachusetts controls the time.

Mr. KENNEDY. Mr. President, I yield such time to the Senator from Connecticut as he has requested in his request, following the Senator from Illinois.

The PRESIDING OFFICER. The Senator will be so recognized.

The Senator from Illinois.

Mr. DURBIN. Mr. President, America will not soon forget the images of Hurricane Katrina, some of the poorest people in our country exposed to the worst natural disaster in current memory. We watched that television screen 24/7 and saw our fellow Americans struggling to survive, fighting the floodwaters, trying to keep their children and their families together.

America may not soon forget that image, but, sadly, many politicians in Washington have already forgotten. The poor people of New Orleans who suffered—as those who did in Mississippi and Alabama—those poor people were underwater long before Hurricane Katrina arrived. They were underwater because they were submerged by poverty. They were submerged by a health care system that denies them basic health care protection. And, yes, they were underwater because if they got up and went to work every single day, and worked 8 hours a day, the most they could hope for under Federal law is $5.15 an hour.

It has been 8 years since we have raised the minimum wage. Senator KENNEDY of Massachusetts has valiantly raised this issue every year, begging the President to come forward and stand up for those poor, vulnerable people in America. Today he asks for what is a modest increase in the Federal minimum wage: 55 cents an hour within 6 months of enactment, and another 55 cents an hour 1 year later.

Not a single family with this increased minimum wage will really get out from under the burden of poverty. We know it. Take a look at what families face today. Since 2001, the price of gasoline has gone up 74 percent. I think it is even higher. Health insurance, has gone up 59 percent, if you are lucky enough to have it. Housing has gone up 44 percent. College tuition has gone up 35 percent.

Yet when we come to the floor and ask for the most basic minimum wage increase for the hardest working people in this country, we are told by the Republican side of the aisle, no. No. They have forgotten the images of Hurricane Katrina. If they ever experienced them, they have forgotten what it is like to have a limited amount of money to try to feed and clothe and shelter a family. Mr. President, $5.15 an hour in the United States of America? Why in the world are we even debating this? For Senators to come to the floor and say: Well, we want to give employers more flexibility on overtime—do you know what that means? It means denying workers overtime pay.

Do you know what their proposal is? If your employer comes to you and says, ''Listen, the boss says you are going to work 50 hours this week and 30 hours next week,'' you put them together and it is 80 hours. No overtime. ''I hope you enjoy a little more time with your family.'' Really? Fifty hours this week, 10 hours of overtime but not an extra penny in overtime pay. That is the Republican proposal. Great ''flexibility.''

One of the Senators said that gives you more time to go to soccer matches with your kids. Well, assuming you can afford the gasoline for your car to get to that soccer match, you realize in your heart of hearts you are making less money than you would have made

trying to make ends meet and keep your family together.

Let me tell you something else that troubles me, too. How many people are standing up on the Senate floor and talking about what is happening to corporate profits while workers' wages are suffering? Corporate profits have gone up 105 percent, while basic workers' wages have gone up 3.2 percent. It just tells you that when it comes to providing some opportunity in this country, there is plenty of opportunity for those with the highest levels of income. We give them the tax breaks and ignore the working families struggling every single day to keep it together.

Senator ENZI of Wyoming is a good colleague. He and I have worked together on many good things, and I am happy to work with him in the future. I have to tell you, his amendment is a very bad idea. The Enzi amendment would deny to more than 10 million workers across America the minimum wage, overtime pay, and equal pay rights. And, sadly, it would be the death of the 40-hour workweek.

In the home I grew up in, we knew that the Good Lord gave us the Sabbath. We knew that organized labor gave us the weekend, understanding that families would work hard Monday through Friday, and they could spend time together on Saturday and Sunday. You will see the end of that weekend with the Enzi amendment. You will see workers plunged into extra hours of work without overtime pay, for a whole week, and fewer hours the following week, and no overtime benefits.

That really cuts the heart out of opportunities for families across America. We have to understand something very basic in this country. We are going to make some important decisions in the closing weeks of this session. Will we remember the vulnerable people who were the victims of Hurricane Katrina? Will we understand how many other families across America are underwater today because they do not have health insurance, they cannot afford gasoline? They are working 40 hours a week and cannot make ends meet. They are deep in credit card debt and cannot get out of it.

For once, wouldn't it be great if the Senate came together on a bipartisan basis to stand up for working families? The way to do that is to vote for the Kennedy amendment and to oppose the Enzi amendment.

Mr. President, I reserve the remainder of my time and yield the floor.

The PRESIDING OFFICER (Mr. MARTINEZ). The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, let me begin by thanking our colleague from Massachusetts for, once again, offering this amendment. As he has pointed out already, this is a pared-down version of what was offered before. It is hard to comprehend how anyone, let alone a family can make ends meet on $5.15 an hour. How do you pay for housing, food, clothes and other staples?

I have often said—and it has been repeated by others—the best social program ever created was not by an act of Congress. It was not created by a regulation or rule. The best social program ever created was a job. Think of all the benefits, the intangibles, that accrue as a result of having a good-paying job.

Here we are saying to people: Work hard and make only $5.15 per hour. You cannot even begin to provide for the basic needs of your own family.

What bothers me a great deal is how things have changed here in the Senate. In my 24 years in the Senate, I recall with great vividness the real discussions we had. I won't bore my colleagues going back to the Roosevelt administration, although it is not insignificant to talk about it. But just in more recent years, the minimum wage battles were not battles. They were resolved in a bipartisan way. My colleague from Massachusetts can tell you chapter and verse how it was done.

What has happened to us? What is wrong with this Congress, in these days, that we are incapable of raising the minimum wage to meet even the level of inflation for poor people in this country? Increasing the minimum wage was never a divisive battle. That was done by almost unanimous consent. We would work it out, come up with an amount that we could afford that made sense for people, and enact it.

These are familiar examples, as shown on this chart, going back to the Roosevelt administration, when the minimum wage was enacted, going through the Clinton administration, where we were actually able to get those kinds of agreements between Republicans and Democrats. And here we are now, for the last 5 years, still battling over whether we can get a modest increase in the minimum wage.

I am really stunned by it. This increase of $1.10, gets you to $6.25. It provides for some additional groceries and rent, 1 year of childcare. That would be an additional $2,288 if we adopted the Kennedy amendment.

There are so many examples that can be cited about what this means and what people are going through. The Senator from New York raised this earlier. Senator KENNEDY has, as well. This is that chart that shows where the minimum wage is. As shown here, this is the poverty line. The black line is the poverty line. We have been without these increases in the minimum wage. People are literally staggering at the bottom with a little more than $12,000 a year. Here is the poverty line.

How do you explain to people, good people, what we are doing in this Congress when we cannot even get this number up even close to the poverty line for people to make ends meet? What has happened? This never was a debate that caused great friction—to talk about making sure people out there working hard would be able to provide for their family. Now, we would turn around and say: You are not even going to get the kind of level of support that makes it possible to make ends meet.

I would hope that, No. 1, we would adopt this amendment. Let's get back to the days when we were able to come to agreement on something that would take people who are struggling and give them a chance to make ends meet.

I have one more chart that highlights the importance of all of this. Consider what is going to happen as heating oil prices go up by more than 30 percent. We are talking about the minimum wage actually going down in excess of 8 percent in terms of its ability to help people make ends meet. We have the Bush economic plan that is going to have rising energy costs with a declining minimum wage. What in the world do we think people are going to do? How are they going to make ends meet? How does that get done? What happened to compassionate conservatism? What happened to the days of the first Bush administration, and the Reagan administration as well, when we were able to come to agreement about the minimum wage?

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

Mr. DODD. I am happy to yield.

Mr. KENNEDY. The Senator very eloquently pointed out the fact that we haven't seen an increase in the minimum wage in 9 years. Inflation has eaten away from that $5.15 as costs and prices have gone up. Is the Senator aware of the increase in the minimum wage that has taken place, for example, in Great Britain? They have the second most successful economy in Europe; Ireland being No. 1. They were at $8.56 an hour. This year they have gone to $8.85 an hour. Next year, in October, they will likely go to $9.44 an hour. From 1999 to 2003, Great Britain has brought more than 1.8 million children out of poverty. That is what has happened in another economy that says that the increase in the minimum wage and providing at least a living wage for individuals is not adverse to the economy. It is important to an economy. And most importantly, it has been crucial to lifting children out of poverty and avoiding the kinds of circumstance that we have seen after Katrina.

Why is it that they can understand this and be so successful, and we, 9 years later, are still on the floor of the Senate for an hour and a half, and I bet we will still be unwilling to provide an increase of $1.10 for some of the hardest working Americans?

Mr. DODD. In response, the Senator makes a very good point. We have a tendency to think about raising the minimum wage as being a cost to society. What the Senator from Massachusetts is pointing out is quite the contrary. Raising the minimum wage is an overall benefit. In fact, the Senator is absolutely correct. In Great Britain, in fact, in no small measure because they have actually raised the minimum wage, the economy of that nation has improved. In the years since we have

not increased the minimum wage in this country, we have watched millions more of our fellow citizens fall into poverty. There is a direct correlation. We now have some 13 million children in America living in poverty. What is the 21st century going to offer if we are raising a generation of so many of our children living in poverty? Overall, 37 million Americans are living below the poverty level. In fact, more than 5 million Americans have fallen into poverty in the last 5 years. In Great Britain, as the Senator points out, as a result of increasing the minimum wage, people have actually been lifted out of poverty and the economy of their country has improved.

What the Senator from Massachusetts is offering today is substantially less than proposals he made earlier. This increase would be to $6.25, if we can get it approved. We ought to come together around this. What a great day it would be in America for the Senate, on a bipartisan basis, to support this modest increase in the minimum wage.

With all due respect to my good friend from Wyoming, his amendment is some 80 pages long. I suggest to my colleagues, in the hour you have left before we vote, that you read this amendment carefully. I think you will be stunned to discover the impact of this amendment.

I ask my friend from Massachusetts, on page 17 of the Enzi amendment, correct me if I am wrong, as I read line 7, subsection 5 of this amendment, it says:

> Notwithstanding any other provision of law, no State may impose a civil penalty on a small business concern, in the case of a first-time violation by the small business concern of a requirement regarding collection of information under Federal law, in a manner inconsistent with the provisions of this subsection.

That is a license, in my view, to go off and do anything, notwithstanding any other provision of law. It could wipe out all other Federal laws. Do my colleagues know which laws are being eliminated, notwithstanding any other provision of law? You could lie and cheat and steal. Am I reading this correctly?

Mr. KENNEDY. The Senator is correct. Effectively, what this does is preempt all 50 States from being able to enforce any of the Federal laws which they are mandated to enforce. I don't know where we get this idea. That could be on safe water, environmental, toxic substances. It could be on oilspills. It could be on any other matter. They preempt the States. Where is this idea coming from? Where did this idea come from? Preempt the States from any kind of enforcement, what in the world has that to do with an increase in the minimum wage?

Mr. DODD. Again, we are looking at an 80 page amendment. This is only one provision that I happened to read quickly. Do my colleagues know what they are voting for? It literally could wipe out all the Federal laws that a State would have to protect its people. That is ridiculous. With all due respect, this amendment ought to be defeated.

I know very little time remains. I urge my colleagues to consider this modest request to increase the minimum wage and reject the Enzi amendment. That amendment goes beyond raising the minimum wage and requires far more work than we can do in a 1-hour debate. Its implications may only be discovered weeks or months from now.

This ought to be rejected if for no other reason than I don't think we even know all that is in it.

I urge adoption of the Kennedy amendment and the rejection of the Enzi amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I yield myself such time as I need. I probably need quite a bit because the problem with debate on the floor of the Senate is that we don't listen to each other. I have said a lot of times that in committee, we are a much more informal group when we are marking up things. Consequently, if there is a misunderstanding or a disparity, we can get together and we can talk about it and we can find out how people were wrong.

I am disappointed that we haven't talked about this. A lot of these have been available before. But what the American people get to see is the 20 percent of the stuff that we will not agree on and, worse than that, probably 40 percent of the stuff that we don't want to listen to.

There have been some gross misstatements here. I want to start with just the last one, talking about allowing people to do whatever they want without a fine. That is such a gross misstatement that I am really disappointed in the opposition. I even heard the opposition say that that would allow people to have oilspills. I don't know how oilspills fall in the category of a first-time paperwork collection. That is all it applies to. If a small business makes a mistake sending data to the Government, just data, just a form—they miss a little bit on the form or they miss the deadline slightly and they immediately correct it and it doesn't hurt anybody—that is all that provision does.

If you are a small businessman out there trying to comply with the thousands of pages we have in a whole bunch of different areas, and you miss one paperwork deadline, you can be fined pretty severely. That is paperwork. That is not oilspills. That is not EPA. That is not any of the other things. It is data collection. That is what the amendment says, data collection. Read the whole amendment. If a small businessman misses a deadline or makes a mistake on paperwork and it is correctable and it is corrected immediately and it doesn't harm any employee, then they are not subject to the fine that time. That is a small concession to the small businessman, a very small concession.

On this whole bill, I am absolutely amazed. We are talking about the same $1.10 increase on the Democratic side that we are talking about in my amendment. There is no difference. Both of them provide for a $1.10 increase over the same period of time. We are not talking about which side is going to put people in poverty. Obviously, there is no listening from that side.

I have to be upset when it is claimed that apparently the minimum wage is the reason for Katrina. You can't go that far, folks. You can't. There isn't a connection between the minimum wage and Katrina happening. There isn't. Yes, there were people involved in that tragedy who were at the minimum wage, just as there are people under the minimum wage across the whole United States. But there isn't a connection with Katrina. It makes nice rhetoric. That is what we tend to do on the floor, make rhetoric. We ought to be making policy. What I have here is good policy for small business.

I also heard some statements about how all the small businessmen are wealthy, and they do that on the backs of employees. First, they are not all wealthy. Secondly, the implication that they are unethical to get that money is also not correct. There are small businesses out there that wind up paying their employees more than they get, even if the employee is on the minimum wage. There is no guarantee for the small business owner. We have to remember that.

I was surprised that the other side didn't say: Here is the chance to get the minimum wage increase and to help small business, not to harm employees. There is nothing in here that harms employees.

Part of the rhetoric was, we are taking away the 40-hour workweek. No, we are not. We are matching Federal employees' benefits to private employee benefits. That is it. What the Federal employees are allowed to do, we say that all employees ought to be able to do. How is that taking away overtime? Because it doesn't take away overtime from the Federal employees, so it also wouldn't take away overtime from the private employees. There is a provision in this amendment that says there cannot be coercion. They talk about forcing people to work on the weekend. That provision says that it has to be in an agreement between the employer and the employee. It truly is designed to be able to get them in a position where, without losing any money, they can have some extra time at the time that they want to have it.

I mentioned before—obviously, nobody was listening—that where this comes up the most is where there are Federal employees married to private employees. The Federal employee gets this special break where he or she can rearrange their schedule so that they

work a little more one week and then they can get time off the next week without any penalty. But the spouse who works in the same town but for a private employer is told by Federal law: You can't have that benefit.

That is wrong. Why can't we, after two decades of seeing that it works for the Federal Government, believe that it might work for private business? If it doesn't work, I would be one of the first ones to move to get it out of there, but it is going to work. There is no indication it would not work.

I think if we sat down and talked about these proposals, there would be some agreement on both sides of the aisle. It has become one of those rhetoric things where we can appeal to the base by blasting the Republicans for having any kind of a proposal, such as this, that would help small businessmen.

There are a lot of statements I ought to correct. One of them is 2 pages versus 85 pages. Clearly, 85 pages versus 2 pages, but that is like me trying to imply they have a Federal Tax Code idea and it is just send your money to the Federal Government. That would not be true. That is what they are saying when they say 2 pages versus 85 pages.

I have additional pages because of the provisions I have talked with the Democrats about and tried to nail down in a very clarified way so there could not be those objections. It is a few pages to do six different things for small business. That is not a lot. Small business is the one that takes the bump on this proposal. I am trying to smooth out the bump, not at the cost of the employee, but as a little bit of help to an employer. And it is offset. It is paid for. We are not driving up the deficit by doing any of these things, but we are providing a way for them to stay in business and provide an increased minimum wage for their employees.

I heard a comment that there were no net new jobs in the private sector in the last 4½ years. Overall, it could be a true statement. I don't know; I have not checked it. But I do know that in the small business sector, there have been some huge net job increases.

Unemployment in the United States is about the same as it was. There has been an increase in population. Those people have been employed. Where have they been employed? In small businesses. We know that big business lost employees. They keep downsizing. They call it rightsizing; I call it losing jobs. But the small business sector has picked up those jobs.

There are people out there generating ideas willing to take risk. Anybody out there who thinks if you have a small business all you do is open the doors and make a lot of money is wrong. Talk to the small businessmen in your community. See how many of them in the middle of the night sit straight up in bed and say: How do I meet payroll tomorrow? But they do, and they solve it, and one of the ways they usually do that is they don't pay themselves. Later, when they make some more money, they may make up for what they lost in that period of time. But talk about no flexibility, they do not have any flexibility; they have to pay their employees. A lot of people who go into business find out it is not the cakewalk they thought it would be.

When I was a small businessman we used to employ some extra people during the slow time so we would have them during the time when we needed them, during the back-to-school rush and the Christmas rush. We were always a little bit disappointed after we paid them through the slow times, when we were not making the money, to then have them leave at the busy times or be sick at the busy times. We understand sick. People get sick. Sometimes as an owner we were sick, but that did not mean we could not come to work because we had to keep the business running.

Small business is different than big business. It runs on fewer people. That is why we call it small business. The small business people have to compensate different ways for themselves, meaning if they are short an employee, the trip they were going to take, the meeting they were going to go to, which could be to buy products for the store, is canceled because somebody has to be there to run the store to provide the customer service. That is how small business works.

I can tell you, too, when you have a small business, the employees are more like family, and so they have insight into more of what is happening in the company than they would in a big company. In a big company, if they know about their own department, it is probably a big deal. In a small company, they know about the whole business. They probably do things in the whole business and they know how tentative the whole business is.

Talk to some of the small businessmen in your own community. Find out what kind of a ''wealthy'' life they live. You will find out most of what they earn they have to put back into the business to keep it growing.

Another significant part of what they earn they have to pay in taxes because the tax structure is set up so that most of what they make looks as though it is personal wage, and that puts them in a very high tax bracket and they wind up paying that out.

Being in small business is not a cakewalk. When the Federal Government forces on them any new regulation, that causes problems.

I also heard a statement that the minimum wage increase only applied to one-tenth of 1 percent of the national payroll. That is another myth I need to address, because, again, having been in business, I know that when the minimum wage rises, it raises all wages. If you have somebody else who is in a tier above the minimum wage, and you raise the minimum wage, you eliminate part of the tier. Nobody can do that in small business because everybody knows what everybody makes. So you raise that one and then you raise the one above that, and then you raise the one above that.

We are not talking about an impact on one-tenth of 1 percent of the national payroll. We are not just talking about those people at the bottom of the ladder; we are talking about most of the people in the United States.

I would like to give all of the people in the United States a pay raise. The problem with giving everybody a pay raise is that it has to be paid for. Somebody has to pay that bill. It is not like the Federal Government. The employer out there, particularly the small businessman—well, even the big businessman—cannot print their own money, so they cannot run deficits very long or they are out of business.

How will businesses go about paying for a raise in the minimum wage? Let's see, you can do it by having less people; but, that is people losing jobs, and I don't know of a single small businessman out there who likes to get rid of people. They feel for these people who work for them. They know these people who work for them. And when they lay them off, they see the hurt in their eyes. In small businesses, it is the little guy who has to look them in the eye and say: I have to have one less employee because I am paying others more. In some businesses, when there is a tight spot and the boss goes to them and says: ''Look, I have this problem, I am not going to be able to make wages so I am going to have to let somebody go'', the people in the business will often say: ''In the short term, we will take a little less because we understand the problem; we don't want you to be forced to lay off anybody.''

That is not the option when the higher wage is mandated, there is no slack to get through a particularly hard time, even if it is a short one. We are talking about the prospect of people losing jobs. That is, unfortunately, one way mandated, increased wages can be paid for. For every businessman I know this would be the least preferable way to meet increased cost, but it is certainly one of the possibilities.

Another possibility is that they can raise their prices. This almost certainly will happen. Essentially, if we raise most of the wages in the country, we are also going to raise most of the prices in the country just to cover the increase in the wage. If what I buy increases in cost, did I get a raise? Not really. So we can create these phony, feel-good pay increases, but if they do not increase buying power, they do not do anything.

What is another way that increases in the minimum wage can be for ? I certainly don't like either of the two options I just noted. Another way to pay for wage increases is to have more productivity. We had one chart that

showed that productivity has gone up. Some of those productivity gains have arisen partly because we have mechanized more. Unfortunately such productivity gains do not employ more people. It switches the way products are made and drives up productivity per person. But increases in productivity will help keep people around at higher wages.

The employees who are out there and are being creative and are looking at their job and saying: ''There has to be a better way of doing this'', and are coming up with improved ways of doing business usually get rewarded. They get more money.

I remember when I was going to college, I was taking a course in Fortran. One of my friends worked at the May D & F Company. He did some inventory work for them. This is in the old days when you had to write your program out by hand and then take it to a card punch operator. They punched the cards for you, and then you would go over the huge mainframe, and run cards through that. When you got them back, you had a bug list and you could rewrite lines so it would work. And the next day you get cards punched again. Eventually you get through the bugs and get this little simple thing done that today a child on a home computer could probably do in about, oh, 20 minutes. But we were amazed at the capacity, the productivity that this provided.

One of my fellow students figured out in doing inventory, that instead of the 40-hour week he was putting in to accomplish the work, that he could write a program, run it through the university computer on class time, and do the same amount of work in 1 hour. Now here is where I was pleased with the company he worked for. They let him do that and they paid him for 40 hours. He was thrilled. He is now a programmer.

What he did was increase his skill level and get paid more for it. That is what we are talking about here. There are a lot of people who start at minimum wage jobs. If they pay attention to the job, I bet they are not at the minimum wage, for most of them, for more than a month, and then they get promoted. They get a pay raise, a real pay raise because they did not force the price up, they increased their productivity.

I mentioned this morning that there is a fellow in Cheyenne, WY, who owns eight McDonald's. Some people try to suggest that working in food service is a bad job, and we kind of run them down. We should never run down any job that people do with their hands.

If you are like that small businessman—and I contend most small businessmen are that way—not trying to take advantage of their employees, but trying to help their employees, these employees can go through a program and get not only a lot of increases in position, but they can actually own a McDonald's—that's right, own it. The McDonald's owner I referred to this morning has had three employees who started at minimum wage and who today own 20 McDonald's. That is the achievement of the American dream.

They did not achieve what they did because of the minimum wage. They achieved this success and advancement because they increased their skill level. That is the key. We have programs that help people increase their skill level. I would be willing to bet that the Federal programs to increase skill level are minimal compared to the business efforts to increase the skill level of their employees. That is how employers increase and improve their business. They help their employees. They do not beat up on their employees. They help their employees.

The smaller the business, I am willing to bet, the more they help their employees. That is what we are talking about here—helping the employees, helping them get higher skill levels.

We do have a Federal program—and I am hoping we can get it through the Senate by unanimous consent or even with some limited debate, whatever it takes and whatever will fit in this packed schedule between now and Thanksgiving . There is some important legislation we need to do. One of them is passing the Workforce Investment Act.

The Workforce Investment Act will provide for about 900,000 people a year—a year—to be trained in higher skilled jobs.

That can be people who are unemployed or people who are employed but trained to higher skilled jobs. I also would like to put in a little plug for Wyoming at this point. We are short of people. We are the least populated State in the Nation. Previously, one of the reasons has been we did not have jobs. Now we have jobs. We do not have people to operate them. So we have started some special training programs in my state so people can work in some of the mines. One might say, Oh, I do not want to be in a mine. Mines are dirty and unsafe places. I want everyone to take a look at the record because there are rules with which they have to comply.

I once had a fellow from Japan, who worked for a newspaper, who was fascinated that I did not do national media, I guess, and he wondered if he could follow me for a day. I said he could follow me for a day if he came to Wyoming and followed me for a day. His paper let him do that. I also invited him to visit a mine.

He came, and we did one of our normal weekend things my wife and I do in Wyoming. We go back to Wyoming most weekends and we travel a different part of Wyoming. We hit all the towns, no matter what size. On that particular trip, we went to Wright, WY, Midwest, Edgerton, Kaycee, and Buffalo, and we held town meetings. I met with schoolkids and businessmen in those places.

I remember the first town that we were in. I think I got to talk to 115 kids at the school. I talked to about 30 businessmen. I had about 40 people show up for a town meeting.

He said: You do not get to meet with many people.

I said: Take a look at the little brochure I gave you that outlined where we were going today and what the populations were.

He said: My goodness, you got to talk to 90 percent of the people.

I said: What size building would that take in Tokyo?

One advantage of being in Wyoming is we get to talk to most of the citizens.

The next day, I did not go with him, but he went to one of our coal mines. We have 14 coal mines in Campbell County. I hope people will come out and take a look at them. If you are using electricity, there is a good chance that you are using electricity from the coal mined in Campbell County, WY. It supplies a third of the coal in the Nation because it is considered clean coal. It does not have a lot of the chemicals in it. We send some to West Virginia. We send some to Kentucky. We send it to most States. In those States, they mix it with their coal, and they meet the clean air standards. That is one of the reasons we mine so much coal.

He went through the mine, took a look at it, and looked at their safety record. I was very pleased when I saw what he had written, which was that he believed Wyoming had participatory democracy. Most States cannot do that because of the bigger populations. On the coal mining, he said he expected it to be dirty and unsafe. He found that it was clean and safe.

Now, here is the real telling part of this story. The next year, he brought his family to Wyoming. In Wyoming, we have Yellowstone Park, the Grand Tetons National Park. We have the first national forest. We have the first national monument, Devil's Tower. He brought his family to see the little towns he had visited and how far apart they were. He brought them to a coal mine because he was impressed.

So come out and work in our coal mines. You can make $50,000 $60,000, $70,000, $80,000 a year.

For women, that would probably be a nontraditional job, but there are a lot of women working in the mines. One of the reasons they can is because it is all huge heavy equipment that has all kinds of things on it that are ergonomic and that make it easy to operate. A woman can drive a coal truck that I guess two of these trucks might fit in this chamber, but I doubt it. The wheels on those things are about 18 feet tall, which means they are 18 feet in diameter. It might fit in the room this way. It is huge equipment. One would be fascinated to see it. Women drive those, and they make the same wage as men. Of course, that is a Federal law, and it ought to be. That helps to get rid of some of those disparities we have between what women make

and men make. Sometimes it is taking nontraditional jobs like that. These are good-paying jobs.

They used to be able to put out an application and then select from those people who had experience on that kind of heavy equipment. They could select the best operator for that piece of equipment. The world is changing. There are fewer people out there to take those jobs, so they now will train someone to run this heavy equipment with no experience.

There is one little catch for some people, and that is that they have to have a clean drug record. They have to be able to pass a drug test because they do not want people running over somebody with this huge piece of equipment.

We have some of those mines that have gone 2, 3, 4 years without a lost-time accident. No lost-time accident, let alone a death. How safe is that? Safer than most of the businesses in the United States.

Like I say, this equipment is designed so that it is easy to operate, it is air-conditioned. The person is inside the whole day. And they are having trouble getting employees at $50,000, $60,000, $70,000, $80,000 a year.

We have a special training center in Casper, WY, for people who want to work in the oil industry. They will take completely untrained people and train them to work in the oil fields and have 100 percent placement on the people who graduate from there. Again, the only catch is a clean drug record, they must be able to pass a drug test. It is a good living.

I am making the point that skills are important. If one does not have the skills, there are ways to get the skills.

The only people who are poor are the people who do not have hope. Now, that is a quote from ''The World Is Flat'' by Thomas Friedman. The only people who are poor are the people who do not have hope. In the United States, everyone should have hope. Everyone should be able to find some way to increase their skill level and get a better job.

When I make those trips around Wyoming, I go to a lot of schools. I talk to a lot of kids. They are making choices down in first and second grade about what is going to happen to their employment capability. I am very pleased with the Wyoming kids. I believe they do an outstanding job. I have had an opportunity to work with some of the kids in the District. The first year I was here, the school board learned when the first day of school opened that the roofs leaked. I do not think that was a good time for the school board to figure that out, but that is what happened. They decided that since the high school students did not have anyplace to go to school, that maybe we could take them as interns on the Hill.

I agreed to take some. The first young lady I talked to, I said: What do you want to be? She said: I want to be a doctor. I was pleased. This is a ninth grader. She has her goal set on being a doctor. I found out later that day that she could not read. Now, what does one think the chances are of a ninth grader ever being a doctor if they can't read? It is not going to happen probably. Well, instead of her working in my office, I sent her to a literacy class. When we finished the internship, I offered to pay her to go to the literacy class. She never showed up. So I am pretty sure she is not a doctor anywhere.

Kids are making choices about what they can do with the decisions they make. I am hoping they make good decisions. I am hoping they get into science and math and work those skills through and make some good decisions as they get into high school to learn where their talents lie.

I have had a person on my staff ever since I got here. Her name is Katherine McGuire. She used to be my legislative director. Now she directs a committee I am on. Her college degree was in agriculture. Her parents did not have a ranch, so I was not sure about that. Then she went on to get a master's degree in agricultural economics. I asked her how that happened. She said: I got some really good advice when I was early in high school from a teacher who said, Every one of you kids ought to have something you can do with your hands because you can always fall back on that. She took that advice. She looked at the agricultural field. She got a degree in that, and then she got an agricultural economics degree. She still has that fallback position. It is important for kids in the country to be thinking about things like that.

There is not any job in the United States that is not needed. Some of the ones that are hands-on are going to be the most needed. The way the economy should work, those should be some of the highest paid.

I am reminded of a fellow who came to solve a little problem in a house where they were having a pipe leak. He climbed under the sink and worked for about 5 minutes and had it fixed.

When he got ready to leave, he said: That will be $75.

The owner of the home said: Seventy-five dollars? You only worked on that for 5 minutes.

He said: Actually, for my time, I only charged you a nickel. The rest of that is for the knowledge I had of how to change that pipe.

So knowledge is worth something. Skills are worth something. Skills are the way one gets higher wages. We can impose any kind of a minimum wage, and what we do is drive up wages so that there has to be more money to cover that wage, which will probably come from higher prices, which wipe out the benefit of the wage.

Another argument that has been made, which I will refute, is that this amendment is taking away overtime. There is no overtime taken away in this. We have flextime in it. Again, I want to repeat, that is the same benefit the Federal Government employees get, and we are just extending exactly the same thing to private employees. If there is anybody in this place who thinks we are taking away from overtime, we should not have given the Federal employees that disadvantage. Of course it is not a disadvantage. They do not get overtime taken away from them. They get to rearrange their schedule so that it helps them in times they want to take off.

It does have to be done in conjunction with the employer. The employee and the employer have to agree. Right now, even if the employee and the employer agree, in the private sector, it is illegal. In the public sector, it is fine. So why would we object to extending to those small businessmen and particularly the people who work for them the same opportunity a Federal employee has?

That covers a few of the misconceptions that I think we got from listening to the last hour and a half of rhetoric about this issue. I am kind of surprised that they have not adopted this amendment and taken credit with the small business community for helping out small businesses while they get the $1.10 increase in minimum wage that both of us are talking about. Both bills have the $1.10, the same amount of raise, the same time period. So all we are talking about is whether, in addition to giving small businesses help, we also help the small businesses to be able to afford it, be able to put some cushion in there so they can pay this increase in the minimum wage and the increase that will go to all of their other employees because one does not just raise the bottom wage; it forces the next tier up to get a raise and the tier above that to get a raise. So virtually everybody is getting a raise. I know I always had to do that when I was in business. I do not know of any other employer who is not faced with the same situation. So we are not just talking about that minimum wage earner, we are talking about many more people.

Let me run through the six basic things we are providing. The first one is updating the small business exemption. Small business generates 70 percent of new jobs. Right now, the small business exemption covers businesses that gross less than half a million dollars. When was that law put into effect? It was in 1960. There has been no update or change since that time. Has there been any inflation during that amount of time? I think so. In fact, if we were doing the adjustment according to wages, that would be over $1.5 million—not half a million but $1.5 million. So what did I do? I compromised on that one. I should have gone for the whole $1.5 million. If I hadn't thought the other side of the aisle was going to be upset over adjusting to inflation, I would have gone the whole $1.5 million, but I did not. I tried to be reasonable on this one. I went in between the two. Like I say, it has

been awhile since we readjusted that threshold and the economy has undergone some dramatic shifts and the way work has been done in this country has changed forever.

My amendment also incorporates some bipartisan technical corrections that were originally proposed in 1990 by the then Small Business Committee chairman. This is very important. The Senate at that time had a majority of Democrats, so the Small Business Committee chairman was a Democrat. That chairman was Dale Bumpers, who was in the Senate when I got here.

The same thing was cosponsored over the years by Senator REID of Nevada, Senator HARKIN of Iowa, Senator PRYOR of Arkansas, Senator MIKULSKI of Maryland, Senator BAUCUS of Montana, and Senator KOHL of Wisconsin.

There were many others, too. All that I named were the Democrats who thought that these technical corrections could be useful to small business. So I hope those Senators who are still here would vote for that.

As those Senators can attest, the Department of Labor disregarded the will of Congress and interpreted the existing small business threshold to have little or no meaning. The Department is misreading the clear language of the statute. This amendment corrects the problem by stating clearly that the wage and overtime provisions of the Fair Labor Standards Act apply to employees working for enterprises engaged in commerce or engaged in production of goods for commerce.

My amendment also applies these wage-and-hour worker safeguards to homework situations. That is very important.

The second thing it does is ensure procedural fairness for small business. That is just commonsense, good Government legislation. Surely, we can all agree that small business owners, the individuals who do the most to drive the economy forward, deserve a break the first time they make an honest paperwork mistake; a first-time, honest, paperwork mistake, where no one is hurt and the mistake is corrected. That is very limited.

The paperwork small businesses face is certainly not limited. Paperwork is practically unlimited for a small businessman. But this amendment is very limited. Small business owners have told me over and over again how hard they try to comply with all the rules and regulations imposed on them, mostly by the Federal Government. As a former owner of a small business, I know what they mean. Because I did accounting for small businesses, I know what they mean. I filled out a lot of that paperwork. I want you to know I got it right. I didn't have any first-time violations. But that is because I was supposed to know about the kind of paperwork that I was doing, and I was being paid for taking care of that. It is one way a small businessman can have a specialist—they can hire an accountant to do some of the paperwork for them. But for the most part, they do their own paperwork.

Yet for all that work, a Government inspector can fine a small business owner for paperwork violations alone, even if the business has a completely spotless record and the employer immediately corrects the unintentional mistake. Even the best intentioned employer can get caught in the myriad of burdensome paperwork requirements imposed on them by the Federal Government. The owners of small businesses are not asking to be excused from any obligations or regulations—although they would probably like for us to do that, and it wouldn't hurt for us to have a commission that would review all those things and see if anybody actually uses the paperwork that is required.

One of the forms I used to get to work on was an annual OSHA report. Annually, they had to fill out a form that showed what accidents had occurred—lost-time accidents—and they had to post that in the break room and they had to file it with the Federal Government.

Any time you have an accident or a near miss, it is good to sit down and talk to your employees about it, have them sit down and figure out how it could have been avoided. That will save accidents and lives. It isn't the paperwork that saves the accidents and lives, it is actually talking about it, timely talking about it, not a report that is filled out at the end of the year and stuck up on the bulletin board where people may or may not read it.

Incidentally, I hope everybody will take a look at that form because it is not that readable. It is not that useful. It could be a lot more useful. It actually could help prevent accidents. It doesn't.

It gets sent to the Federal Government. What do you think happens to that form? Nothing useful. There could be a good use for it. We actually could compile that and find out, in the different industries, what sorts of things were happening and share that with those industries. We do not do that. That is a wasted piece of paper. But if you do not send it the first year you are in business and you have been working like crazy to meet payroll and January 31 comes around and it is about the third of February and somebody says, Did you send in that OSHA report? Actually, I think that one goes the end of February, so it is the 1st or 2nd of March. They say, Did you send that in?

Oh, no, I didn't.

He can be fined for that, even though on the 4th of March he fills out the paperwork, posts it in the break room and sends it in and has, during this whole year, been recording all of the accidents in a readable form, talking to his employees about it, and solving the problem.

Why should he be fined for that? Nobody is going to use it. But that is the kind of paperwork violations we are talking about. Remember, it is a Government inspector fining a small business owner for paperwork violations alone—paperwork violations alone, not the oilspills that you heard about earlier. That would not be a paperwork violation. That would be a most definite violation, outside of paperwork. So they have to have a paperwork violation alone and the business has to have a completely spotless record and the employer has to immediately correct the unintentional mistake.

Surely we ought to be able to give small business owners who are trying their best a break on mistakes that don't hurt anyone. Even the best intentioned employer can get caught in that myriad of paperwork requirements.

They are not asking to be excused. What they are asking for is a break, if they have previously complied, they didn't hurt anybody, have a completely spotless record, and they correct for the unintentional mistake.

One small businessman who I had testify before my committee a few years ago when I was working on some of the OSHA things and I was a subcommittee chairman of the Workforce Safety and Training Subcommittee of this same committee, he told Congress:

> No matter how hard you try to make your business safe for your employees, customers, neighbors and family members, in the end, if a Government inspector wants you they can get you. The Government cannot tell me that they care more for my family's safety and my company's reputation than I do.

Small businessmen and women who are the first-time violators of paperwork regulations that don't hurt anyone deserve a break.

Let's talk about providing some regulatory relief for small business. You can see these are not costly things I am talking about here. They should not be controversial. They are pretty common sense. I think we could sit down and draft a bill and probably agree on a lot of this still if we had not polarized ourselves on the floor of the Senate first. It is one of the worst things we do, polarize things instead of work them out. If we try to work them out, we can probably come to agreement on 80 percent of the issues. That is usually what we can do when we work things out together.

The third thing my amendment would do is provide regulatory relief for small businesses. Any increase in the minimum wage places burdens on small employers. It is only fair that we simultaneously address the ongoing problem of agencies not fully complying with the congressional directive that is contained within the Small Business Regulatory Enforcement Fairness Act. Under the law, agencies are required to publish Small Entity Compliance Guides for those rules that require a regulatory flexibility analysis. Unfortunately, agencies have either ignored this requirement or, when they try to comply, they have not done so fully or carefully. My amendment addresses this lapse by including specific revisions that the Government

Accountability Office has suggested to improve the clarity of the Compliance Guides.

The Government Accountability Office suggested that we should clarify the requirements; not change them, clarify them. It would force the Federal agencies to take into consideration the ways that they are harming small business by placing non-commonsense, confusing rules and regulations on them. It is a chance for the small businessman to say: If you impose that, I don't see where it goes anywhere. I don't see where it does anything. Why would you impose that on me?

It is an opportunity for small businesses to respond when the Federal Government is about to change the way they do their business. And it is a law that we passed. Congress said: You have to do this. You cannot affect small businesses without listening to them.

I ought to rephrase that. You can't affect small business unless you present them an opportunity to speak. There is no requirement that the Federal Government listen. No matter what the small businessman says, the agency that is affecting small business does not have to listen. They have to accept the comments. But, currently, that law is not clear enough that they even accept the comments.

I have seen some documents that small business people have sent in to the Federal Government about a problem with a law or regulation that they were trying to comply with. The response they got was, ''No response necessary.''

I have no idea why ''no response necessary'' is a response. That doesn't answer the question. Of course one of our problems is one-size-fits-all Government. We think we can sit in Washington and figure out a rule that will apply to the whole country and to every kind of a business out there and every kind of a job that is out there. That is egotism at its highest, I think. The businesses that are out there have constructive comments to offer about ways to do things better. But you know what? We don't let them contribute.

We vote on a lot of legislation that affects small businesses, and it is only right that they have some opportunity to express their thoughts on how that is going to affect them and in many cases to suggest a better idea.

One of the reasons I go back to Wyoming most weekends is so that I can go around and talk to those people who are doing real jobs. Often, when I talk to them, they say: ''I have got this little Federal requirement that I have to meet and I don't understand it.'' Often, I don't understand it either. But what I like to say is: ''What do you think we ought to do about that?'' By golly, you wouldn't believe some of the commonsense, simple things they suggest that would achieve the same Federal principle in a less complicated, straightforward way. Often, the problem arises because we don't talk about the issue with the people who are actually doing the work out there. There are a lot of people out there doing a good job, working hard, and trying to figure out what in the heck it is we did in Washington. This is one small place where they are supposed to have input. We said: ''You are supposed to get input.'' Actually, I would like for them to say not only that you get input, but that the Federal Government has to listen as well. That should be the goal.

Let me move on to another one of the six small things that my amendment calls for.

My amendment seeks removal of the barriers to flexible time arrangements in the workplace. I have covered this a couple of times. I need to cover it a couple more times because obviously the other side of the aisle doesn't understand what I am talking about yet. I will try it yet a different way.

What we are talking about is legislation that could have a monumental impact on the lives of thousands of working men and women and families in America. The legislation would give employees greater flexibility in meeting and balancing the demands of working families. The demand for family time is evident. Let me share with you some of the latest statistics: Seventy percent of employees do not think there is a healthy balance between their work and their personal life. Seventy percent of employees say the family is their most important priority. The family time provision in my amendment addresses these concerns head on. It gives the employee the option of flexing their schedules over a 2-week period. In other words, employees would have 10 flexible hours they could work in 1 week in order to take 10 hours off in the next week.

Flexible work arrangements have long been available for employees of the Federal Government. Government employees have been able to do this for two decades, and no one has said: ''You took away the overtime right of Federal employees''.

The flex time program was so successful that in 1994 President Clinton issued an Executive Order extending it to the parts of the Federal Government that had not yet had the benefit for the program. That wasn't a Republican idea then. It might have been in the beginning. But none of these things matter whether they are Republican ideas or Democratic ideas.

It was a Democratic President who extended that benefit to all of the Federal Government and said:

> Broad use of the flexible arrangement enables Federal employees to better balance their work and family responsibilities and increase employee effectiveness and job satisfaction while decreasing turnover rates and absenteeism.

That sounds pretty good to me. However, while employees in the Federal Government have these rights, employees working for a small company in Wyoming don't have the same rights. They may be married to somebody in the Federal Government who has these rights and can rearrange their schedule to do things. But the spouse in the private sector and the employer in the private sector are not allowed to make a similar arrangement. That shouldn't ever happen in America. For years, Federal government employees have had these rights—rights that were extended by a Democrat President of the United States who noted: These arrangements work, reduce turnover, and reduce absenteeism. How can you provide these rights to Federal employees and not allow other people the very same right?

I have heard some arguments that with flexible time arrangements employees in the private sector would be forced to do things such as work on a weekend. That is not correct. The bill specifically prohibits any coercion in making these flex time agreements. It has to be a mutual agreement between the employee and the employer.

Unlike the Federal Government, there are businesses out there that do work on weekends. There are people out there who would like to be able to shift their schedule one week to the next without losing their pay, without having to take a day off, and they are willing to do that by working a little bit more in one week and a little less in the next week and having the funds they anticipated, similar to Federal employees.

I don't understand how we can say that is wrong.

I couldn't agree more with former President Clinton. I did not agree with him a lot, but that is one of the things he had right. Now we need to go further and extend this privilege to the private sector workers.

We know this legislation is not a total solution. We know there are many other provisions under this 65-year-old Fair Labor Standards Act that need our attention. But the flexible time provision is an important part of the solution. It gives employees a choice, the same choice as Federal workers. If we are going to keep that from applying to the private sector, maybe we ought to take that away from the Federal employees so they can get their full rights.

Does anyone on the other side of the aisle really want to do that? Do you want to see a revolution? It is the kind of revolution that small business employees may soon provide as well, as they become aware that they have been denied this benefit.

Mr. President, what is the remaining time?

The PRESIDING OFFICER (Mr. COBURN). The Senator from Wyoming has 18 minutes; the Senator from Massachusetts has 6 minutes.

Mr. ENZI. Thank you. I still have two provisions that I need to run through, and I wanted to make sure I got underway on that before my time expires.

The fifth provision in my amendment is extending the restaurant employee

tip credit. The food service industry relies on what is called a tip credit, which allows an employer to apply a portion of an employee's tip income—income they are getting on the job—against the employer's obligation to pay the minimum wage.

To protect the tipped employees, current law requires that a tip credit cannot reduce an employee's wages below the required minimum wage. Employees report tips to the employer because the employer has to report it. Tips that are earned are reported.

We have a few States that do not allow a tip credit. Increases in the Federal minimum wage would require raises for all affected employees in all States. Lack of a tip credit in some States could result in employers having to give raises to what are often are their most highly compensated employees—the tipped staff. As a result the nontipped employees are negatively impacted by the mandated flow of scarce labor dollars to the tip positions. In addition, the employers in these States are put at a competitive disadvantage with their colleagues and the rest of the country that can allocate employee compensation in a more equitable manner.

I must also note that my amendment clarifies that the tip credit provision does not apply all parts of a State wage law. That argument that was used the last time the tip credit was brought up. That is clarified in this amendment. That should not be an argument anymore. The tip credit provision applies only in States that do not have a tip credit; and, only to the minimum wage portion of that State's overall wage hour law.

The sixth and final provision in my amendment is one which provides small business tax relief. As I noted before, some of the people who pay the most taxes in the United States are small business owners. Even the money that business owners put back into the business to reinvest has to have the taxes paid on it. That is at the highest tax rate in the country. If we are going to impose even greater burdens on small businesses, we should give them some tax relief at the same time.

My amendment would extend small business expensing. It would simplify cash accounting methods that make it a little easier for them to do their accounting, and it would provide restaurant depreciation relief.

All of these tax provisions are fully offset. In total, the additional provisions of my amendment are intended to mitigate the small business impact of a $1.10 increase in the minimum wage.

These steps are a partial way in which the cost of a minimum wage increase can be addressed. They will help the businesses that must absorb these increased costs. I share the view of many of my colleagues regarding such an increase on the Federal level. We must do our best to soften the blow. This may be the best means to that end.

I would also encourage all of my colleagues to look at the true root of the problem of minimum wage workers, and that is minimum skills. We all share the same goal—I don't think anybody can deny that—and that is to help American workers find and keep well-paying jobs. I am even going beyond that. I hope they get to own their own businesses. We must, however, realize that minimum skills—not minimum wages—is the problem. Education and training will solve that problem and lead to the kind of increased wages and better jobs we all want to create for the Nation's workers.

Let us work together to get that Workforce Investment Act passed, and go to conference. We didn't get that done 2 years ago. Without the conference, those 900,000 people a year that could be getting paid a higher amount are not. We need to get it passed and get it conferenced. We need to get the President to sign it, and as a result, higher skills and training will be accelerated, and wages in this country will go up.

I urge my colleagues to oppose the amendment offered by Senator KENNEDY and support my amendment that raises the wage by the same amount, but then has additional provisions, that provides small business benefits and soften the impact of the increases on the businesses that will have to pay them. If you are interested in small business, you need to support my amendment.

I yield the floor. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I understand we have 8 minutes.

The PRESIDING OFFICER. Six minutes.

Mr. KENNEDY. I will use 3 minutes now.

I have listened to my good friend talk about the fact that Government workers have some flextime and small businesses don't. Of course, the principal answer is that many of the Government employees have protections. They have the Federation of Government Employees, they have the Treasury Employees Union. AFSCME protects a great number of them. They have different collective bargaining benefits. Their interests can be protected. That is completely different from the current situation.

Second, the Senator from Wyoming points out the pressures on small business.

Look at this. States with higher minimum wages have more jobs in small businesses. This is the Commerce Department. This isn't just general rhetoric. This is the Commerce Department. From 1998 to 2001, 10 States and Washington, DC, with minimum wages higher than $5.15, had an employment rate of 4.8 percent. In the 40 States with minimum wage at $5.15, it was 3.3 percent.

This is the answer. We have seen it with the employment growth, that is, with the small businesses, which responds to the Senator's point with regard to small business. States with higher minimum wages add more retail jobs. Employment growth between January 1998 to 2004: 11 States and Washington, DC, with minimum wages higher than $5.15, a growth of 6.1 percent; 39 States with $5.15, 1.9 percent.

The fact is we are talking about fairness. We had a wonderful exposition. I am always delighted to hear from my friend from Wyoming. I always value it and I always learn something. But I didn't learn much about the minimum wage today. We are talking about the fact that every other time we have had a successful increase in the minimum wage, we have expanded the coverage, except with the proposal we will have on the floor of the Senate this afternoon with the Enzi proposal, which will actually reduce the total numbers of people who are covered.

Let's get back to what this issue is all about. This issue is about fairness, about the fact in 9 years we have not increased the minimum wage. We have increased Members' salaries in here. I didn't hear those who are opposed to our increase in the minimum wage out here speaking against the increase in Members' salaries. We have increased them 8 times for a total of $28,000. We have not hesitated to increase our salaries, but now we are not going to increase the minimum wage for working men and women who have not seen an increase in 9 years?

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. KENNEDY. I withhold my remaining 3 minutes.

The PRESIDING OFFICER. Who yields time?

Mr. ENZI. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Wyoming has 12 minutes 30 seconds.

Mr. ENZI. Notify me when I have 3 minutes remaining.

The PRESIDING OFFICER. The Chair will so notify the Senator.

Mr. ENZI. I will go through the GOP alternatives again. They ought to be bipartisan alternatives. I am afraid in previous discussions they got polarized in spite of changes to the extent that some god policy initiatives that deserve bipartisan support will never have support from the other side. That would be a tragedy.

When the opposition says that my amendment does not have a minimum wage increase, I wonder what bill he is looking at. My bill has a $1.10 increase over the same period of time as his, although I think he is going to make a small change to his bill because there is a slight paperwork problem—but since it is the first-time paperwork problem it probably ought to be forgiven, just like my proposal would forgive small business first-time paperwork errors.

What we are talking about is six provisions that soften the blow of the increased mandate on small businesses.

First, permit family flextime for workers. Employees have the option of flexing their schedules over a 2-week period so they can work more hours 1 week and take hours off the next. The argument we have heard is that we are cutting overtime pay.

If flextime is a pay cut, then Senator KENNEDY and many of the Senate Democrats have voted to inflict pay cuts on workers. If flextime is wrong, then so was former President Clinton in 1994 when he extended it to all Federal employees because it increased effectiveness and job satisfaction and decreased turnover rates and absenteeism, the same thing it will do in the private sector. Why cannot somebody married to a Federal employee have the same advantage the Federal employee has?

Second, it would increase small business exemptions from the Fair Labor Standards Act. We have had, since the 1960s, the small business exemption has applied to businesses with $500,000 in receipts. This exemption amount has lagged behind inflation. The small business exemption should be at about $1.5 million. We are only raising it to $1 million.

Every Federal labor law has a small business threshold. To the Civil Rights Act of 1964, it was 15 employees. For the Family and Medical Leave Act, the threshold is 50 employees. Proponents minimum wage increases assert it is necessary to adjust the minimum wage to account for inflation. For the same reason, it only makes sense to adjust a small business threshold as well.

The real value adjusted for inflation of the small business exemption established in the 1960s exceeds $1.5 million. Senator KENNEDY uses his benchmark as the minimum wage rate for the same era. The Republican proposal is restrained and reasonable.

The third issue is relief for small business, one-time paperwork errors. Small business people making paperwork errors would receive an automatic forgiveness for the first mistake in paperwork matters. It applies only to routine administrative paperwork requirements imposed on small business by the Federal Government. This is commonsense protection for small businesses from the otherwise ''gotcha'' mentality of Government inspectors and only applies to businesses with spotless records who immediately correct the unintentional mistakes. My amendment also gives small businesses regulatory relief by increasing federal agencies compliance, review, and enforcement of the Small Business Regulatory Enforcement Fairness Act. It requires better compliance assistance for small businesses. Federal Government officials have given too often short shrift to the existing requirement to solicit public compliance guidelines. The Republican package includes specific provisions that the Government Accounting Office suggested to improve the clarity of these requirements.

Another provision of my amendment relates to the minimum wage tip credit for restaurant workers. This is so the restaurant can be sure all employees are being treated fairly, not just the high tip employees.

We also have small business tax relief in the form of simplified cash accounting methods for small businesses. It will mean they do not have to see accountants as often. As an accountant, I think that is a good idea.

It gives quicker depreciation for restaurants, who are a major employer for low skilled workers, and all of the tax provisions are fully offset.

The very modest tax cuts were targeted directly to businesses most likely to have minimum wage workers. Remember that in spite of the rhetoric, this amendment increases the minimum wage in the same amount and on the same dates that Senator KENNEDY's two-page proposal does. The difference is that my amendment attempts to smooth some of the bumps for those employers who will be most adversely affected by the increase.

These tax benefits will help small businesses that employ low-skills workers survive without drastic cuts in employment. We are trying to help the small business so that they will be able to afford the increase in the minimum wage. It is not an easy thing to come to the Senate and ask for a minimum wage increase. I am sure Senator KENNEDY knows that. He has been working on it a long time. I appreciate he dropped it back to what the Republicans were asking for earlier and what we have in my proposal at the present time.

I yield the floor and reserve the remainder of my time.

Mr. KENNEDY. I yield myself the remaining time.

Mr. President, we have had a good discussion. We did not have a chance to go through this excellent book, ''Raising the Floor,'' with these heart-rending stories happening in America every single day. Their recommendation? Increasing the minimum wage, ending poverty as we know it. It talks about increasing the minimum wage.

I didn't have the chance to go through ''Communities in Crisis,'' the excellent survey about the increase in hunger in the United States of America. The one thing we know how to do in this country is grow crops. The second thing we know how to do is deliver them. We know how to deliver product. But the explosion in the numbers of hungry in this country, particularly among children—there is an increasing number of homeless in our society, in all parts of our society. Talk to the various church groups about what is happening in every part of our Nation.

This is not going to be the sole answer to it, but we have not increased the minimum wage in 9 years. We have reached out to the Republicans. We have accepted their figure of $1.10 over 2 years. Our amendment is two pages long. Senator ENZI's amendment, with all respect, is 87 pages and includes all kinds of things.

We believe this is the time. Fairness demands this. The American people understand fairness. We are talking about men and women who work 40 hours a week, 52 weeks of the year. These are hard-working men and women who have a sense of pride and dignity in their work. They work hard, they try to provide for their children, they work one, two, or three jobs. We have not increased the minimum wage now for 9 years. Prior to that time—the 50 years before this—it was bipartisan. President Bush 1 signed an increase in the minimum wage, Jerry Ford, President Nixon, Dwight Eisenhower, and now we have been 9 years without this kind of increase.

This demands fairness. It demands we give hard-working Americans, those at the lower end of the economic ladder, on the first rung of the economic ladder, working hard, an increase.

I remind all of our colleagues of that extraordinary Newsweek cover talking about the other America. It talks about the problems of hunger, the problems of homelessness, and the problems of people being left out and left behind. We can make a downpayment with an increase in the minimum wage. I hope we will do it this afternoon.

The PRESIDING OFFICER. The Senator from Wyoming.

AMENDMENT NO. 2063, AS FURTHER MODIFIED

Mr. KENNEDY. I have a consent request for a technical modification.

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

The amendment (No. 2063), as further modified, is as follows:

At the appropriate place, insert the following:

SEC. ___. MINIMUM WAGE.

(a) INCREASE IN THE MINIMUM WAGE.—

(1) IN GENERAL.—Section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

''(1) except as otherwise provided in this section, not less than—

''(A) $5.70 an hour, beginning 6 months after the date of enactment of the Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia and Independent Agencies Appropriations Act, 2006.

''(B) $6.25 an hour, beginning 12 months after that date.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect 60 days after the date of enactment of this Act.

Mr. ENZI. I rise to summarize my comments regarding the amendments and to urge my colleagues to cast a vote against the Kennedy amendment and in favor of the minimum wage amendment I have offered.

What is before the Senate are two amendments that raise the minimum wage by the same amount, $1.10 over 18 months. The difference between the bills is that the Kennedy amendment, while raising the minimum wage the same amount as my amendment, fails to acknowledge that any raise in the minimum wage has some negative consequences on the employers, particularly small employers, who must find

the means to pay for the increase. The fact is that a negative economic impact on a small employer will probably result in a negative impact on that small employer's employees. This is an important aspect. When you give a pay increase, you have to find a way to pay for it.

My amendment recognizes that reality and provides some relief for those employers. It should be borne in mind these employers, particularly small employers, are the source of the vast majority of jobs that are held by minimum wage workers. We have to continue to keep these businesses viable and growing as a source of job creation. As I said before, I wish for the people working in those places to be the ones owning the business, and I have shared some examples of how that happens.

I ask that everyone bear in mind it is little solace to an individual earning minimum wage to learn that the minimum wage is increased but that he or she no longer has a job at which she can now earn the higher wage, or that it is not worth anything anymore because inflation took it away.

It is for this reason my amendment contains not only the same increase as Senator KENNEDY's amendment but includes provisions designed to soften the blow and ensure that those most-affected businesses continue to create jobs and entry-level, low-skilled employment opportunities.

I urge my colleagues to reject the amendment offered by Senator KENNEDY and to vote in favor of the more balanced and comprehensive approach to the minimum wage which is represented by my amendment.

I ask for a unanimous consent request that following the scheduled votes at 4:30 the Senate proceed to the vote in relation to the motion to suspend the rules in relation to the Dorgan amendment No. 2078, with no amendment in order to the amendment prior to the vote; provided there be 2 minutes equally divided prior to the vote. I further ask that Senator DORGAN be recognized for up to 5 minutes prior to the start of the scheduled votes.

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

The Senator has 3 minutes 17 seconds remaining on his allotted time.

Mr. ENZI. I yield back my remaining time.

The PRESIDING OFFICER. The time is yielded back.

The Senator from North Dakota is recognized for 5 minutes.

AMENDMENT NO. 2078

Mr. DORGAN. I understand my amendment has been ordered in a group of three amendments to be voted on. I will take 5 minutes to explain this amendment.

This amendment deals with the establishment of the creation of a committee in the Congress to investigate the waste, corruption, and abuse in contracting in Iraq and also contracting, in most cases, sole-source contracts, no-bid contracts, by companies that have gotten billions of dollars for reconstruction in Iraq, and now for reconstruction on the gulf coast.

Let me go through some headlines to explain my concerns. In 5 minutes I cannot do much more than headlines, but I have held seven hearings on this subject now in the Policy Committee. ''No-bid contracts win Katrina work.'' That is the most recent one. ''White House uses practices criticized in Iraq rebuilding for hurricane-related jobs.''

''Ex-Halliburton workers allege rampant waste.'' ''They say the firm makes no effort to control costs, overspending taxpayer money in its contract with the United States in Iraq and Kuwait.''

''Halliburton faces criminal investigation.'' ''Pentagon probing alleged overcharges for Iraq fuel.''

''Audit questions $1.4 billion in Halliburton bills.''

I mention Halliburton. It has nothing to do with the Vice President. Everyone says, Well, you are attacking the Vice President. He used to be president of Halliburton, yes, but this is long after he was involved in Halliburton. The fact is this is about contracting abuse.

Let me go through a couple of the specific examples: New $85,000 trucks paid for by the American taxpayers abandoned or torched by the side of the road in Iraq if they have a flat tire or a plugged fuel pump. A case of Coca-Cola, $45.

They had gasoline delivered for twice the price that the folks who used to do the work in the Defense Energy Support Center said that gasoline could have been delivered for. Halliburton charged for 42,000 meals served to soldiers every day, when they were serving 14,000 meals to soldiers. They missed it by 28,000—overcharging 28,000 meals a day.

There was the loss of $18.6 million worth of Government equipment in Iraq that Halliburton was given to manage. There is also the leasing of SUVs. Listen to this, the leasing of SUVs for $7,500 a month. They ordered 50,000 pounds of nails, and they came in the wrong size. They are laying in the sands of Iraq. It does not matter. The taxpayer picks up the cost. This is all cost-plus.

Do you want to buy some hand towels for the troops? The Halliburton buyer who was to order the hand towels was told by his superiors, ''You have to order hand towels with the company logo on them,'' which more than doubled the price. It does not matter. The taxpayer is picking up the tab for all of this. It is unbelievable waste, fraud, and abuse.

Let me show one additional chart. This fellow shown in this picture testified at one of our hearings. These are $100 bills, batched together with Saran Wrap. He said: We used to play football with them. He said it was like the Old West. This is in Iraq. He said: We told people, subcontractors and contractors, we pay by cash. Bring a bag. Bring a bag. Here is the cash.

Now, for Hurricane Katrina, no-bid contracts once again. By the way, the top civilian official at the Army Corps of Engineers said this: I can unequivocally state that the abuse related to contracts awarded to Halliburton represents the most blatant and improper contract abuse I have ever witnessed during the course of my professional career.

Do you know what happened to her? She lost her job. Why? For speaking out. You don't dare say these kinds of things.

I spoke this morning about contracting abuse with respect to Hurricanes Katrina and Rita, the contracts down in the Gulf of Mexico. I will not go into that again except to say this: When the Government and FEMA pay a truck driver $15,000 to haul ice cubes from New York to Massachusetts—yes, New York to Massachusetts—where they are now in storage, to provide relief to hurricane victims in Louisiana, somebody ought to have their head examined.

Oh, the truck did go from New York, to Missouri, by mistake. FEMA directed them to Missouri. Then they said: Oh, we want you to go to Maxwell Air Force Base in Alabama. He took those ice cubes to Alabama. He sat there for 12 days, with hundreds of other trucks with food and clothing and ice and other things for victims—he sat there for 12 days—and then they said: We want you to put this back in storage in Massachusetts. So the taxpayers paid this trucker—and there were hundreds of them—$15,000 for hauling ice for the relief of hurricane victims in Louisiana, hauling that ice from New York to Massachusetts. Once again, somebody ought to have their head examined.

My point is, I would like to see a congressional committee examine this. This amendment would create a special committee. I hope my colleagues will believe, as I do, this waste, fraud, and abuse is intolerable, and we ought to deal with it by investigative committee.

Mr. President, I yield the floor.

AMENDMENT NO. 2063, AS FURTHER MODIFIED

The PRESIDING OFFICER. There is now 2 minutes equally divided before a vote in relation to the amendment offered by the Senator from Massachusetts.

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, minimum wage workers are men and women of dignity. They are predominantly women. They are women with children. So it is a children's issue, a women's issue. These people who earn the minimum wage are men and women of color. It is a civil rights issue. But most of all, it is a fairness issue.

Over the period of these last 5 months, we have passed class action legislation to provide special help and assistance to many of the largest corporations in this country. We have

passed bankruptcy legislation to take care of the credit card companies. We passed an energy bill that will provide enormous bonuses to the oil companies.

We have an opportunity this afternoon to pass an increase in the minimum wage for workers who have not seen an increase in the minimum wage over the last 9 years. This is about fairness. Americans understand it. They have seen it on the cover of their magazines with Hurricane Katrina. They know our fellow Americans need a helping hand. This can be enormously helpful to those Americans.

Let's go ahead and pass it this afternoon.

Mr. FEINGOLD. Mr. President, I rise to lend my strong support to the amendment offered by the Senator from Massachusetts, Mr. KENNEDY, of which I am proud to be an original cosponsor.

It is far past time that we increase the Federal minimum wage. The last time Congress voted to increase the minimum wage was 9 years ago in 1996, and the last portion of this increase went into effect 8 years ago, in 1997. Since that time, consumers have faced increased prices for everything from food to clothing to housing to childcare. And in recent months, gas prices have skyrocketed, and home heating costs are expected to follow suit this winter.

And while prices have increased, the purchasing power of the current Federal minimum wage of $5.15 has decreased by nearly 20 percent. A minimum wage employee working 40 hours per week can expect to earn $10,712 per year—this is $4,500 below the poverty line for a family of three.

Many minimum wage earners are struggling to provide for the basic needs of themselves and their families. They cannot make ends meet on $10,712 per year. These are hard-working Americans who deserve a fair shake and who deserve a raise. Many work more than one job, sacrificing time with their children just to scrape by. Without an increase, these workers will continue to work long hours to support their families with little hope of saving for the future when they are barely able to afford the basic necessities of the present.

According to a recent report by the Center on Budget and Policy Priorities and the Economic Policy Institute, ''[t]he minimum wage now equals only 32 percent of the average wage for private sector, non-supervisory workers. This is the lowest share since 1949.'' In other words, the average minimum wage worker makes less than one-third of the average nonsupervisory private sector worker.

I am concerned about the argument made by some who oppose this amendment that most minimum wage workers are entry-level workers in first jobs who will advance their way out of these jobs and move on to better paying jobs. While that is certainly true for some workers, about two-thirds of those who would benefit from this increase are adults, and one-third of them are the sole breadwinners for their families.

I was proud to vote for the 1996–1997 increase that brought the minimum wage to its current $5.15, and I am pleased to be a cosponsor of legislation introduced by the Senator from Massachusetts, Mr. KENNEDY, that would increase the minimum wage to $7.25. The Economic Policy Institute notes that such an increase would directly help more than 7.3 million American workers. This increase will also help the children and other dependents of these workers potentially more than 15 million people.

Congress's inaction on this issue over the past several years has led to a growing grass-roots movement to increase the minimum wage at the state level. A number of States have enacted increases over the past few years, including Wisconsin. On June 1, 2005, the minimum wage for most workers in my State was increased to $5.70 per hour. The Wisconsin Department of Workforce Development estimated that this increase would help between 100,000–150,000 workers in my State. While this increase represents a step forward for Wisconsin workers, more work still needs to be done to boost the purchasing power of these and other workers around our country.

The amendment that we are considering today would increase the minimum wage by $1.10 to $6.25 over the next 18 months. While this modest increase will not go as far as I and many others in this body would in supporting the hard-working Americans who badly need a raise, it is a long-overdue step in the right direction.

The amendment offered by the Senator from Wyoming, Mr. ENZI, would also provide a $1.10 per hour increase in the Federal minimum wage. However, this amendment would also undermine low-income workers' struggle to break the cycle of poverty by allowing employers to deny these workers badly needed overtime pay through a so-called flex time scheme. This amendment, which is a total of 87 pages, also includes a number of other incentives for businesses that are intended to dampen the opposition of business groups to even this modest $1.10 increase in the Federal minimum wage. However, what these proposals would really do is continue the process of dismantling the 40-hour work week that was initiated with the implementation of the administration's ill-conceived overtime rule changes last year.

By the Senator from Wyoming's, Mr. ENZI, own admission, the committee which he chairs, the Committee on Health, Education, Labor, and Pensions, has not even considered many of these provisions. These provisions should not be rolled into a proposal to increase the minimum wage. The need to increase the Federal minimum wage stands on its own merit. And while I am certainly willing to consider a package of reforms for business, this is not the way to do it. Passage of such antiworker proposals should not be a condition of providing a much-needed wage increase for the lowest income Americans.

I urge my colleagues to oppose the Enzi amendment and to support American workers by voting for the Kennedy amendment.

Mr. KERRY. Mr. President, I want to voice my strong support for an amendment offered by Senator KENNEDY to raise the Federal minimum wage from its current, astonishingly low, rate of $5.15 an hour to $6.25 an hour.

An increase in the minimum wage is long overdue. Today, the real value of the minimum wage is more than $3.00 below what it was in 1968—and at the lowest real rate in half a century. Since Congress last acted to raise the minimum wage in 1996, its value has eroded by 17 percent. This indifference is simply unacceptable. To have the same purchasing power it had in 1968, the minimum wage would have to be more than $8.50 an hour. Yet nothing has been done, and the consequences of our inaction are very real and very painful to millions of Americans.

Since President Bush took office, the number of Americans living in poverty has increased by 5.3 million. Today, 37 million people live in poverty, including 13 million children.

Yet, despite the damage we do to our citizens and to our economy, this body has been unwilling to increase the Federal minimum wage. We had no problem passing a budget that gives tax cuts to millionaires and trillion-dollar companies. Yet we have had tremendous problems ensuring that hard-working Americans, Americans who work full time jobs and play by all the rules, won't have to live below the poverty line, won't have to decide between educating their children and feeding their family, won't have to chose between heating their home and buying prescription drugs.

It is time for us to get our priorities straight. Seven and a half million workers will directly benefit from a minimum wage increase. Raising the minimum wage to $6.25 an hour would give minimum wage earners an additional $2,288 a year—enough to pay for a community college degree. Congress should act now to pass a minimum wage increase that makes up for our inexcusable failure to act in the past. I support Senator KENNEDY's amendment to increase the Federal minimum wage, and I urge my colleagues to do the same.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. ENZI. Thank you, Mr. President.

Mr. President, I urge my colleagues to oppose the Kennedy amendment. Both amendments have the $1.10 minimum wage increase in them. But only my amendment provides for some way to offset that mandate so that small businesses which employ minimum

wage workers can afford the minimum wage.

My colleague's amendment will harm small businesses' economic growth and job creation. It would raise the cost for small businesses without providing any relief to soften the blow, forcing employers to make difficult choices, such as raising prices, reducing employee benefits, or terminating employees.

I urge my colleagues to support my amendment. My amendment protects small businesses' economic growth and job creation. As I said, they both raise the minimum wage by $1.10, to $6.25, in two steps of 55 cents over 18 months.

My amendment recognizes and addresses the fact that all minimum wage increases have certain costs. My amendment protects against the negative impact of this wage hike on small businesses, the biggest source of job creation. This proposal is responsible and reasonable and designed not to dislocate or unintentionally harm workers.

I ask you to support my amendment.

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

The question now occurs on amendment No. 2063, as further modified, offered by the Senator from Massachusetts.

The Senator from Missouri is recognized.

Mr. BOND. Mr. President, I raise a point of order under section 425(a)(2) of the Congressional Budget Act that the amendment is an unfunded mandate.

Mr. KENNEDY. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of that act for purposes of the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE) and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

I further announce that, if present and voting, the Senator from New Jersey (Mr. CORZINE) would vote ''aye.''

The yeas and nays resulted—yeas 47, nays 51, as follows:

[Rollcall Vote No. 257 Leg.]

YEAS—47

Akaka	Dodd	Levin
Baucus	Dorgan	Lieberman
Bayh	Durbin	Lincoln
Biden	Feingold	Mikulski
Bingaman	Feinstein	Murray
Boxer	Harkin	Nelson (FL)
Byrd	Jeffords	Nelson (NE)
Cantwell	Johnson	Obama
Carper	Kennedy	Pryor
Chafee	Kerry	Reed
Clinton	Kohl	Reid
Conrad	Landrieu	Rockefeller
Dayton	Lautenberg	Salazar
DeWine	Leahy	
Santorum	Schumer	Stabenow
Sarbanes	Specter	Wyden

NAYS—51

Alexander	DeMint	Martinez
Allard	Dole	McCain
Allen	Domenici	McConnell
Bennett	Ensign	Murkowski
Bond	Enzi	Roberts
Brownback	Frist	Sessions
Bunning	Graham	Shelby
Burns	Grassley	Smith
Burr	Gregg	Snowe
Chambliss	Hagel	Stevens
Coburn	Hatch	Sununu
Cochran	Hutchison	Talent
Coleman	Inhofe	Thomas
Collins	Isakson	Thune
Cornyn	Kyl	Vitter
Craig	Lott	Voinovich
Crapo	Lugar	Warner

NOT VOTING—2

Corzine	Inouye

The PRESIDING OFFICER. On this vote there are 47 yeas, the nays are 51. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to. The point of order is sustained and the amendment falls.

Mr. CORZINE. Mr. President, I rise today to speak in support of Senator KENNEDY's amendment to increase the Federal minimum wage to $6.25 an hour. I strongly support this amendment. Unfortunately, I was delayed in arriving in Washington, DC, this afternoon. Had I been here, I would have voted yes.

An increase in the Federal minimum wage is long overdue.

It has now been over 8 year since the minimum wage was increased to its current level of $5.15 per hour. Since that last increase, Congress's failure to adjust the wage for inflation has reduced the purchasing power of the minimum wage to record low levels. In fact, after accounting for the loss of real value due to inflation, the purchasing power of the minimum wage has not been this low since the wage increase of 1945.

When Congress acted to raise the minimum wage in 1996, the wage was raised from $4.75 to its current $5.15. At the time, this modest increase had real results for American families. The adjustment increased the take-home pay of nearly 10 million hard-working Americans. But with inflation, the real dollar value of that increase is long gone.

So that we are clear, raising the minimum wage is a family issue. So often in this body we talk about family issues. This is our chance to act.

No family gets rich from earning the minimum wage. In fact, the current minimum wage does not even lift a family out of poverty. A person earning the current minimum wage, working 40 hours a week, 52 weeks a year, earns only $10,700—nearly $4,000 below the poverty line for a family of three.

Seven out of every 10 minimum wage workers are adults, and 40 percent of minimum wage workers are the sole breadwinners of their families. Moreover, a disproportionate number of minimum wage workers are women. Sixty percent of minimum wage workers are women, and many are single mothers who must put food on the table, make rent payments, and provide childcare. Increasing the minimum wage by a mere $1.10 per hour would provide tangible help to these families in the form of groceries, rent, and the ability to pay rising energy costs.

I am proud that lawmakers in my State have recognized that the Federal minimum wage level simply is not adequate for a decent standard of living in high-cost States such as New Jersey. On October 1, the minimum wage in my State increased to $6.15, and on October 1, 2006, it will increase again to $7.15. I know that this increase will have a meaningful effect on people's lives: it means on average 15 months of child care; over a year of tuition at a community college; 10 months of heat and electricity; 6 months of groceries; and 5 months of rent. It is estimated that the increase will directly benefit some 200,000 workers.

But fair wages should not be guaranteed only to workers in a few States. I support Senator KENNEDY's amendment because I believe that all Americans should be entitled to a decent standard of living. Unfortunately, neither the current minimum wage, nor Senator ENZI's amendment, can relieve the problems of low-income families in this country.

I support the Kennedy amendment because it seeks to provide a real-wage increase to workers that will help them keep up with the rising cost of living in our Nation. I strongly oppose the Enzi amendment offered by my Republican colleagues, because it is a cruel hoax on hard-working Americans.

It is politics over policy, and it is just plain wrong.

All of our hard-working families nationwide need and deserve a minimum wage that reflects the increased cost of living in America. It is the least we can do for people who work hard and make a positive contribution to our great Nation.

I strongly support a raise in the minimum wage for the millions of Americans who work so hard to support their families. We as Americans can do better. We must act now.

AMENDMENT NO. 2115

The PRESIDING OFFICER. There are now 2 minutes equally divided prior to a vote in relation to amendment No. 2115 offered by the Senator from Wyoming.

Who seeks recognition?

Mr. ENZI addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming is recognized for 1 minute.

Mr. ENZI. I thank the Chair.

Mr. KENNEDY. Mr. President, I make a point of order. The Senator is entitled to be heard and I think the Senate is not in order.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Wyoming.

Mr. ENZI. Mr. President, I ask my colleagues to vote for my amendment,

which raises the minimum wage level by the same amount as the previous amendment. The reason this amendment deserves your support whereas the last one did not is that my amendment has some small business offsets that will actually give them a chance to be able to pay the minimum wage increase without having to lay people off, without having to accept some other alternatives that would be very detrimental to employees. This amendment helps the small business people that employ minimum wage workers by giving them some tax breaks which are all offset. This amendment also includes five other good policy initiatives which I have mentioned previously in great detail.

I would ask that you vote for this amendment and provide small businesses with the help they need to be able to afford a minimum wage increase.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, if you are interested in an increase in the minimum wage, this is not the way to go. We offered an increase in the minimum wage which was two pages. His amendment is 87 pages, and in that 87 pages includes 3, at least, very important items that are going to short-change American workers.

First, it changes the eligibility of those who are going to be covered and eliminates 10 million workers who are covered today.

Secondly, it eliminates overtime. It is called flextime, but the decision whether it is going to be flexible will be decided by the employer, and therefore you are going to find that for the average worker in this country earning $44,000, $3,000 in overtime will be eliminated.

Finally, this legislation effectively preempts 31 States that have a tip credit program. On page 21: Any State may not establish or enforce their tip credit.

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

Mr. KENNEDY. That will disadvantage workers in 31 States. This is the wrong amendment for American workers and it should be defeated.

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

Mr. KENNEDY. Mr. President, I make a point of order that the pending amendment violates section 425 of the Congressional Budget Act of 1974.

Mr. ENZI. Mr. President, I move to waive the applicable section of the Budget Act and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Hawaii (Mr. INOUYE) is necessarily absent.

The yeas and nays resulted—yeas 42, nays 57, as follows:

[Rollcall Vote No. 258 Leg.]

YEAS—42

Alexander	Domenici	Murkowski
Allen	Ensign	Roberts
Bennett	Enzi	Santorum
Bond	Frist	Sessions
Brownback	Graham	Shelby
Bunning	Grassley	Smith
Burns	Hagel	Snowe
Cochran	Hatch	Specter
Coleman	Hutchison	Stevens
Collins	Kyl	Talent
Craig	Lugar	Thomas
Crapo	Martinez	Thune
DeWine	McCain	Voinovich
Dole	McConnell	Warner

NAYS—57

Akaka	DeMint	Lieberman
Allard	Dodd	Lincoln
Baucus	Dorgan	Lott
Bayh	Durbin	Mikulski
Biden	Feingold	Murray
Bingaman	Feinstein	Nelson (FL)
Boxer	Gregg	Nelson (NE)
Burr	Harkin	Obama
Byrd	Inhofe	Pryor
Cantwell	Isakson	Reed
Carper	Jeffords	Reid
Chafee	Johnson	Rockefeller
Chambliss	Kennedy	Salazar
Clinton	Kerry	Sarbanes
Coburn	Kohl	Schumer
Conrad	Landrieu	Stabenow
Cornyn	Lautenberg	Sununu
Corzine	Leahy	Vitter
Dayton	Levin	Wyden

NOT VOTING—1

Inouye

The PRESIDING OFFICER. On this vote, the ayes are 42, the nays are 57. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The point of order is sustained. The amendment falls.

The PRESIDING OFFICER. The Democratic leader is recognized.

Mr. REID. Mr. President, on vote No. 257, the Kennedy minimum wage amendment, Senator CORZINE was absent because of a plane delay. If he were present, he would have voted ''aye''.

AMENDMENT NO. 2078

The PRESIDING OFFICER. There is now 2 minutes equally divided prior to the vote on the motion to suspend.

Who seeks recognition?

The Senator from North Dakota.

Mr. DORGAN. The motion to suspend is my amendment. It deals with an underlying amendment that would establish an investigative committee to deal with waste, fraud, and abuse dealing both with the country of Iraq and the reconstruction in Iraq, as well as reconstruction in Louisiana, Mississippi, and in the gulf region following Hurricanes Katrina and Rita.

I will not recite all of the examples of substantial abuse from sole-source contracts, but it is dramatic. I believe very strongly, just as Harry Truman did back in the 1940s in uncovering substantial waste, fraud, and abuse in the Department of Defense at a time when a member of his own party occupied the White House, I believe this Congress deserves good, strong oversight. We will get that with a special committee looking into this massive waste, fraud, and abuse.

I would hope very much my colleagues would agree with me. If they believe we are spending too much, that there is waste, fraud, and abuse that we ought to get after, they ought to be voting for this amendment and vote to suspend the rules.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I appreciate the concern of my friend from North Dakota, who is a vigilant guardian of taxpayer dollars. I point out that the Armed Services Committee is doing work literally every day and every week on this issue. We also have Appropriations Committee oversight on much of this, and I believe that under the existing structure we have today, including the excellent leadership of our chairman and vice chairman of the Homeland Security Committee, that this amendment is not necessary.

I understand the concern of the Senator from North Dakota. I just do not believe it is necessary at this time.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I also point out that there is a special inspector general overseeing all of these contracts. His name is Stuart Bowen. He does an excellent job. He has been very aggressive in his audits and investigations. He regularly briefs all Members who are interested, and he issues a report every quarter on his findings. So I do believe we have an adequate structure in place, a needed structure to be sure.

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

The question is on agreeing to the motion to suspend rule XVI, paragraph 4, for the consideration of amendment No. 2078 offered by the Senator from North Dakota.

Mr. BOND. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. The following Senator was necessarily absent: the Senator from Montana (Mr. BURNS).

Mr. DURBIN. I announce that the Senator from Hawaii (Mr. INOUYE) is necessarily absent.

The yeas and nays resulted—yeas 44, nays 54, as follows:

[Rollcall Vote No. 259 Leg.]

YEAS—44

Akaka	Durbin	Mikulski
Baucus	Feingold	Murray
Bayh	Feinstein	Nelson (FL)
Biden	Harkin	Nelson (NE)
Bingaman	Jeffords	Obama
Boxer	Johnson	Pryor
Byrd	Kennedy	Reed
Cantwell	Kerry	Reid
Carper	Kohl	Rockefeller
Clinton	Landrieu	Salazar
Conrad	Lautenberg	Sarbanes
Corzine	Leahy	Schumer
Dayton	Levin	Stabenow
Dodd	Lieberman	Wyden
Dorgan	Lincoln	

NAYS—54

Alexander	DeWine	McCain
Allard	Dole	McConnell
Allen	Domenici	Murkowski
Bennett	Ensign	Roberts
Bond	Enzi	Santorum
Brownback	Frist	Sessions
Bunning	Graham	Shelby
Burr	Grassley	Smith
Chafee	Gregg	Snowe
Chambliss	Hagel	Specter
Coburn	Hatch	Stevens
Cochran	Hutchison	Sununu
Coleman	Inhofe	Talent
Collins	Isakson	Thomas
Cornyn	Kyl	Thune
Craig	Lott	Vitter
Crapo	Lugar	Voinovich
DeMint	Martinez	Warner

NOT VOTING—2

Burns	Inouye

The PRESIDING OFFICER. On this vote, the yeas are 44, the nays are 54. Two-thirds of the Senators voting not having voted in the affirmative, the motion is not agreed to. The point of order is sustained, and the amendment falls.

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

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, we are going to clear a number of amendments, including the amendment by the Senator from Iowa. The ranking member and I were going to clear a number of amendments and agree to them one at a time. Did the Senator have a very brief statement which he wants to make on that or does he want to speak for a longer time?

Mr. HARKIN. Mr. President, I have about 5 minutes at the most.

Mr. BOND. Mr. President, on that assumption, we will defer to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I thank the managers of the bill. I have an amendment to send to the desk.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

AMENDMENT NO. 2076

Mr. HARKIN. 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 Iowa [Mr. HARKIN] proposes an amendment numbered 2076.

Mr. HARKIN. 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 provide that no funds may be used to provide assistance under section 8 of the United States Housing Act of 1937, to certain students at institutions of higher education, and for other purposes)

At the appropriate place insert the following:

SEC. 1____. (a) No assistance shall be provided under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) to any individual who—

(1) is enrolled as a student at an institution of higher education (as defined under section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002));

(2) is under 24 years of age;

(3) is not a veteran;

(4) is unmarried;

(5) does not have a dependent child; and

(6) is not otherwise individually eligible, or has parents who, individually or jointly, are not eligible, to receive assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

(b) For purposes of determining the eligibility of a person to receive assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), any financial assistance (in excess of amounts received for tuition) that an individual receives under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), from private sources, or an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002), shall be considered income to that individual.

(c) Not later than 30 days after the date of enactment of this Act, the Secretary of Housing and Urban Development shall issue final regulations to carry out the provisions of this section.

Mr. HARKIN. Mr. President, in June of 2004, an article appeared in the Des Moines Register outlining serious systemic abuses of the section 8 program by a number of wealthy athletes at the University of Iowa. For example, Brian Ferentz, a Hawkeye football player, was found to be living in subsidized housing despite the fact that his father, Kirk Ferentz, lives in a million-dollar mansion in the same town and is paid $2 million a year to coach his team. To add insult to injury, Brian's scholarship actually included a $700-per-month stipend for housing, yet he was living in section 8 housing.

After reading about this abuse, I immediately wrote to the Secretary of Housing and Urban Development, urging him to close this loophole, which was the unintended consequence of a 1995 regulation allowing students to qualify for section 8, in order to help people of modest means have a chance at an education and to better themselves. Unfortunately, HUD's response was far from adequate. HUD's solution allowed students who live away from home for just a year into the program, if their parents stopped claiming them on their taxes. It is a pretty easy calculation to see that a simple deduction is worth less than a year's rent, so it is easy for parents to decide to stop claiming their otherwise dependant children in order to save money.

Fortunately, language was included in the final omnibus appropriations bill last year closing a little more of this loophole. It said that if you get an athletic scholarship, anything above tuition should be counted as income. Unfortunately, this doesn't go far enough. This doesn't address people who are getting housing stipends from other kinds of scholarships, and doesn't address students whose millionaire parents decided not to claim them on their taxes, but have those kinds of resources available to them.

Recently, the Des Moines Register took another look at who is living in the notorious housing project that has housed so many student athletes in the past. The problem is still there, in full force, well over a year after my first letter to HUD. The Register's Lee Rood reported the following:

While other students foraged this month for new apartments, at least three dozen Hawkeye athletes—many of whom receive $6,560 annually for room and board as well as free tuition—returned to one of the best low-rent housing deals in this notoriously high-rent city: Pheasant Ridge Apartments.

It is time to solve this problem once and for all. These students are taking up housing that is meant for truly needy people—people who typically have to wait 2 years for housing assistance, despite the fact that they may have the means to pay rent.

My amendment would simply require students' parental income to be considered in determining their eligibility unless they are independent students under the same qualifications that the Department of Education uses in their Free Application for Student Financial Aid. That is to say, students' parental income would count against them unless they are over age 24, married, have kids, or are veterans. Further, it would require a student's scholarship above the cost of tuition to be counted as income.

Clearly, students who are truly needy should have access to section 8. Help with housing often makes the difference between being able to get an education and not being able to make ends meet. However, kids whose parents have the means to help them should not be living in this housing. And if they are getting a housing stipend, some of it should actually be spent on housing. That's all I ask.

We cannot allow our system to be abused by people who take taxpayer dollars inappropriately, and then go off to sign multimillion-dollar NFL contracts. People who do need the help—including our most frail elderly, people with disabilities, and genuinely disadvantaged folks—are getting displaced. This has been going on for well over a year, and despite pleas to HUD to fix this, the abuse has not stopped. There is no other way to put a quick end to this fraud. My amendment will end it with the stroke of the President's pen.

This amendment will finally close all those loopholes.

I thank the manager of the bill and the ranking member for their consideration. I urge acceptance of this amendment.

Mr. BOND. Mr. President, we believe the amendment of the Senator from Iowa makes good sense. It has been cleared on both sides. I believe it can be agreed to by voice vote.

The PRESIDING OFFICER. Is there further debate on amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2076) was agreed to.

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

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BOND. Mr. President, I have a number of amendments which have been cleared on both sides. We propose to bring them up individually and ask for their immediate consideration and a voice vote.

I ask unanimous consent to set aside any pending amendments in order to offer those amendments.

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

AMENDMENT NO. 2070

Mr. BOND. First, I call up amendment 2070 on behalf of Senator COLLINS. This amendment would repeal the increased limit on the micropurchase threshold on Government credit cards.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Missouri [Mr. BOND], for Ms. COLLINS, Mr. LIEBERMAN, Mr. AKAKA, Mr. WARNER, Mr. LEVIN, Mr. COLEMAN, Mr. DORGAN, and Mr. WYDEN, proposes an amendment numbered 2070.

Mr. BOND. 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 repeal the increased micropurchase threshold)

On page 406, between lines 7 and 8, insert the following:

SEC. 724. REPEAL OF INCREASE IN MICRO-PURCHASE THRESHOLD.

Section 101 of the Second Emergency Supplemental Appropriations Act to Meet Immediate Needs Arising From the Consequences of Hurricane Katrina, 2005 (Public Law 109–62; 119 Stat. 1992) is repealed.

Mrs. MURRAY. Mr. President, I ask unanimous consent that Senators Dorgan and Wyden be added as cosponsors to this amendment.

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

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2070) was agreed to.

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

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2101, AS MODIFIED

Mr. BOND. Mr. President, I send an amendment to the desk on behalf of Senator AKAKA.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Missouri [Mr. BOND], for Mr. AKAKA, and Mr. BINGAMAN, proposes an amendment numbered 2101, as modified.

Mr. BOND. 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 provide for an Internal Revenue Service report regarding tax refund procedures and practices)

On page 293, after line 25, add the following:

SEC. _____. By not later than June 30, 2006, the Internal Revenue Service, in consultation with the National Taxpayer Advocate, shall report on the uses of the Debt Indicator tool, the debt collection offset practice, and recommendations that could reduce the amount of time required to deliver tax refunds. In addition, the report shall study whether the Debt Indicator facilitates the use of refund anticipation loan (RALs), evaluate alternatives to RALs, and examine the feasibility of debit cards being used to distribute refunds.

Mr. BOND. Mr. President, this amendment requires the IRS to submit a report on the debt indicator program which is currently used by the IRS to assist in tax filing and speeding up tax refunds where applicable. Senator AKAKA has raised legitimate concerns on whether the debt indicator has led to the abuse of certain refund loans. While there are legitimate and appropriate refund loans, there is, unfortunately, some abuse of them. We need to address this problem.

This amendment has been modified after discussion with our staff and the IRS.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2101), as modified, was agreed to.

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

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2139

Mr. BOND. Mr. President, I send to the desk an amendment on behalf of Senator BOXER.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Missouri [Mr. BOND], for Mrs. BOXER, proposes an amendment numbered 2139.

Mr. BOND. 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 ensure that proper precautions are taken by airports and air carriers to recognize and prevent the spread of avian flu, and for other purposes)

On page 219, line 5, strike the period and insert the following: ": *Provided further*, That the Secretary of Transportation, in consultation with the Secretary of Health and Human Services and the Administrator of the Federal Aviation Administration, not later than 60 days after the date of enactment of this Act, shall establish procedures with airport directors located at United States airports that have incoming flights from any country that has had cases of avian flu and with air carriers that provide such flights to deal with situations where a passenger on one of the flights has symptoms of avian flu .".

Mr. BOND. Mr. President, this amendment has been cleared on both sides. It requires the Secretary of Transportation, in consultation with the Secretary of Health and Human Services and FAA, to establish procedures to deal with airline passengers who have avian flu symptoms.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2139) was agreed to.

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

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BOND. Mr. President, on a lighter note, I understand that David Letterman last night said there had been an instance of avian flu being transmitted to human beings. He also noted that several Astros had come into contact with the Cardinals on Monday night and suffered greatly. Fortunately, I hope that epidemic only returns tonight and tomorrow night.

AMENDMENT NO. 2073, AS MODIFIED

Mr. BOND. Mr. President, I call up amendment No. 2073, and I send a modification to the desk on behalf of Senator INHOFE.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Missouri [Mr. BOND], for Mr. INHOFE, proposes an amendment numbered 2073, as modified.

Mr. BOND. 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 allocate funds for improvement to Lawton-Fort Sill Regional Airport, and for other purposes)

At the appropriate place, insert the following:

SEC. ____. None of the funds appropriated or otherwise made available in this Act may be used by the Federal Aviation Administration for ARAC consolidation of Fort Sill, Oklahoma into OKC TRACON: *Provided*, That $3,000,000 of the fund appropriated under the heading "Facilities and Equipment" shall be available for ARAC operation and maintenance at Fort Sill, Oklahoma.

Mr. BOND. Mr. President, as a result of BRAC decisions, the military is reconsidering closing the Army Radar Approach Control at Fort Sill, OK.

This amendment prohibits the FAA from moving air traffic control over the area to the TRACON at Oklahoma City.

The amendment has been cleared on both sides.

The PRESIDING OFFICER. Is there any further debate on the amendment? If not, the question is on agreeing to the amendment, as modified.

The amendment (No. 2073), as modified, was agreed to.

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

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BOND. Mr. President, I send an amendment to the desk on behalf of Senator STABENOW and ask it be considered.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Missouri [Mr. BOND], for Ms. STABENOW, proposes an amendment numbered 2140.

The amendment is as follows:

(Purpose: To provide additional funds to support programs established under the LEGACY Act of 2003)

On page 316, line 26, after ''Provided,'' insert ''That of the amount made available under this heading, $10,000,000 shall be made available to carry out section 203 of Public Law 108-186,

Mr. BOND. Mr. President, this amendment deals with the HUD elderly demonstration program. It provides a set-aside out of HUD's 202 elderly housing program to fund the legacy housing program which provides for intergenerational housing units to assist low-income grandparents who are heads of households. This program was enacted in 2003. It seems to make eminent good sense to me.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2140) was agreed to.

Mr. BOND. I move to reconsider the vote.

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2072, AS MODIFIED

Mr. BOND. Mr. President, I call up amendment numbered 2072 on behalf of Senator CRAIG, and I send a modification of the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Missouri [Mr. BOND], for Mr. CRAIG, Mr. CRAPO and Mrs. MURRAY, proposes an amendment numbered 2072, as modified.

The PRESIDING OFFICER. The amendment will be so modified.

The amendment (No. 2072), as modified, is as follows:

(Purpose: To require the use of a sliding scale match ratio for certain transportation projects in the State of Idaho)

On page 276, after line 24, insert the following:

SEC. ___. Subsection (a) of section 1964 of Public Law 109–59 is amended by inserting ''Idaho, Washington,'' after ''Oregon,''.

Mr. BOND. I ask that Senator MURRAY be added as a cosponsor.

The amendment clarifies the non-Federal share for certain funding. It has been cleared on both sides of the aisle.

I ask my colleague if she wishes to make any comments.

Mrs. MURRAY. Mr. President, this amendment is an important step for both of our States. I appreciate the Senator from Missouri bringing it forward tonight.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2072), as modified, was agreed to.

Mr. BOND. I move to reconsider the vote.

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BOND. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

AMENDMENT NO. 2123

Mr. DAYTON. Mr. President, I call up amendment numbered 2123 for immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendments are set aside.

The clerk will report.

The bill clerk read as follows:

The Senator from Minnesota [Mr. DAYTON] proposes an amendment numbered 2123.

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

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

The amendment is as follows:

(Purpose: To prevent gas and oil gouging during natural disasters)

At the end of the bill, add the following:

TITLE ___—NATURAL DISASTER OIL AND GAS PRICE GOUGING PREVENTION ACT OF 2005

SEC. _01. SHORT TITLE.

This title may be cited as the ''Natural Disaster Oil and Gas Price Gouging Prevention Act of 2005''.

SEC. _02. DEFINITIONS.

In this title:

(1) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(2) QUALIFYING NATURAL DISASTER DECLARATION.—The term ''qualifying natural disaster declaration'' means—

(A) a natural disaster declared by the Secretary under section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)); or

(B) a major disaster or emergency designated by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

SEC. _03. RESTRICTION ON PRICE GOUGING.

(a) RESTRICTIONS.—It shall be unlawful in the United States during the period of a qualifying natural disaster declaration in the United States to increase the price of any oil or gas product more than 15 percent above the price of that product immediately prior to the declaration unless the increase in the amount charged is attributable to additional costs incurred by the seller or national or international market trends.

(b) ENFORCEMENT.—

(1) ENFORCEMENT POWERS.—

(A) IN GENERAL.—The Commission shall enforce this section as part of its duties under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(B) REPORTING OF VIOLATIONS.—For purposes of the enforcement of this section, the Commission shall establish procedures to permit the reporting of violations of this section to the Commission, including appropriate links on the Internet website of the Commission and the use of a toll-free telephone number for such purposes.

(2) PENALTY.—

(A) CRIMINAL PENALTY.—A violation of this section shall be deemed a felony and a person, upon conviction of a violation of this section, shall be punished by fine not exceeding $10,000,000 if a corporation, or, if any other person, $350,000, or by imprisonment not exceeding 3 years, or both.

(B) CIVIL PENALTY.—The Commission may impose a civil penalty not to exceed $5,000 for each violation of this section. For purposes of this subparagraph, each day of violation shall constitute a separate offense. Civil penalties under this subparagraph shall not exceed amounts provided in subparagraph (A).

(c) ACTION BY STATE ATTORNEY GENERAL.—The attorney general of a State may bring a civil action for a violation of this section pursuant to section 4C of the Clayton Act (15 U.S.C. 15c).

Mr. DAYTON. This makes it a felony to raise oil or gas prices more than 15 percent during a natural disaster and other emergencies, and gives the U.S. Trade Commission, U.S. Department of Justice, and State Attorneys General the authority to prosecute violators. This creates an exception for cases in which a price increase is directly attributable to additional costs incurred by the seller.

Currently, no Federal laws exist to address gasoline price gouging. Only 13 States have such laws to prosecute those who raise prices arbitrarily during times of emergency.

On September 1, in the immediate aftermath of Hurricane Katrina, President Bush said in response to the price gouging that was underway:

There ought to be zero tolerance of people breaking the law during an emergency such as this, whether it be looting or price gouging at the gasoline pump, or taking advantage of charitable giving or insurance fraud.

On September 6th of this year, I wrote a letter to the U.S. Attorney General in which I said, in part:

I respectfully urge the Justice Department to follow through on the President's warning and to investigate the sudden spike in gas prices nationwide, following Hurricane Katrina.

I further wrote:

I am deeply concerned that oil suppliers have used Hurricane Katrina as an excuse to grossly overcharge consumers, regardless of whether fuel is in short supply. The Administration has a responsibility to protect consumers from anyone who would exploit catastrophic circumstances for outrageous profit,

and I respectfully urge you to investigate this matter.

I ask unanimous consent my letter be printed at the conclusion of my remarks.

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

(See Exhibit 1)

Mr. DAYTON. Almost 7 weeks later, I have not received even the courtesy of a reply from the U.S. Attorney General. More importantly, I am not aware of anything that he has done to investigate collusion among the oil companies, the refiners, and the gasoline distributors whose post-Hurricane Katrina price escalations parallel one another.

Gasoline prices nationwide are 36 percent higher than 1 year ago. Natural gas prices are 145 percent higher. That means that current natural gas prices are almost 2½ times what they were a year ago.

The price of home heating oil in my home State of Minnesota now is 63 percent above a year ago. Americans everywhere are being ravaged economically by energy companies, as the citizens in Louisiana and Mississippi were ravaged by Katrina—although, obviously, their physical and economic devastation was even worse.

While we have properly come to the aid of hurricane victims, Congress has done nothing to help the victims of this energy price disaster. Apparently, the Bush administration has failed them, also.

My amendment is an opportunity to do something to stop energy price exploitation, to make price gouging as illegal as it is immoral.

Actions speak louder than words. Now is the time to act against exorbitant energy prices, not just talk about them. The vote on my amendment will show who is serious about driving energy costs down for all Americans, and who is not.

EXHIBIT 1

SEPTEMBER 6, 2005.

Hon. ALBERTO GONZALES,
Attorney General, U.S. Department of Justice, Washington, DC.

DEAR MR. ATTORNEY GENERAL: On September 1st, President Bush said, with respect to price gouging following Hurricane Katrina, ''There ought to be zero tolerance of people breaking the law during an emergency such as this, whether it be looting, or price-gouging at the gasoline pump, or taking advantage of charitable giving, or insurance fraud.''

I respectfully urge the Justice Department to follow through on the President's warning and to investigate the sudden spike in gas prices nationwide, following Hurricane Katrina.

In my home state of Minnesota, gas prices rose by 52 percent—from $1.97 to $3.01 per gallon—in the three-month period from June 1st to September 1st. In three days alone, from August 29th to September 1st, Minnesota gas prices surged 45 cents per gallon. I understand that storm damage to oil operations off the Gulf Coast has caused part of the problem. However, most of Minnesota's oil supply originates from Canada.

I am deeply concerned that oil suppliers have used Hurricane Katrina as an excuse to grossly overcharge consumers, regardless of whether fuel is in short supply. The Administration has a responsibility to protect consumers from anyone who would exploit catastrophic circumstances for outrageous profit, and I respectfully urge you to investigate this matter.

Thank you for your consideration of my request.

Sincerely,

MARK DAYTON.

Mr. BOND. Mr. President, not having had a chance to review the entire workings of the amendment, this is a very serious legislative amendment. Unfortunately, this is not the appropriate place to raise this legislation. It is more appropriately concerned with the Energy Committee or other committees. I, therefore, raise a point of order that this is legislation on an appropriations bill. I believe now the Chair has a copy of the amendment. I raise an objection under rule XVI that this is legislation on an appropriations bill.

The PRESIDING OFFICER. In the opinion of the Chair, the point is well-taken. This is legislating on an appropriations bill and the amendment falls.

Mr. BOND. I thank the Chair.

The PRESIDING OFFICER. The Senator from Washington.

AMENDMENT NO. 2141

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

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington, [Mrs. MURRAY], proposes an amendment numbered 2141.

Mrs. MURRAY. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To require the U.S. Interagency Council on Homelessness to conduct an assessment of guidance disseminated by agencies for grantees of homeless assistance programs)

At the appropriate place, insert the following: Page 406, line 8 insert a new paragraph.

SEC. 724. The United States Interagency Council on Homelessness shall conduct an assessment of the guidance disseminated by the Department of Education, the Department of Housing and Urban Development, and other related federal agencies for grantees of homeless assistance programs on whether such guidance is consistent with and does not restrict the exercise of education rights provided to parents, youth, and children under subtitle B of title VII of the McKinney-Vento Act: *Provided*, That such assessment shall address whether the practices, outreach, and training efforts of said agencies serve to protect and advance such rights: *Provided further*, That the Council shall submit to the House and Senate Committees on Appropriations an interim report by May 1, 2006, and a final report by September 1, 2006.

Mrs. MURRAY. This amendment has been cleared on both sides. It simply requires the U.S. Interagency Council on Homelessness to make sure that all of the appropriate agencies take into consideration the homeless assistance programs. This is especially important for kids today who are homeless, to make sure their rights are protected.

I ask for its immediate consideration.

Mr. BOND. Mr. President, I understand this amendment is necessary because in some homeless shelters, children are being sent to schools where they have not been going. It has caused a great deal of confusion. This is an appropriate measure and we accept it on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2141) was agreed to.

Mr. BOND. I move to reconsider the vote.

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Ms. SNOWE. Mr. President, I rise today for one very simple reason, the days are relentlessly marching toward winter . . . the clock is ticking as the thermometer edges ever downward . . . and it would be unconscionable for Congress to adjourn for the year without providing critical, additional assistance for LIHEAP, the Low Income Home Energy Assistance Program, at a time of skyrocketing fuel prices.

There should be no mistake, this is an emergency and a crisis we know is coming, and it would be an abrogation of our responsibility to stand by and allow it to occur. It does not take a crystal ball to predict the dire consequences when home heating oil in Maine is $2.52 per gallon, up 59 cents from a year ago . . . kerosene prices average $2.95 a gallon, 75 cents higher than this time last year, and it is not even winter yet. Some projections have a gallon of heating oil reaching $3.00.

So understandably, we are already hearing the mounting concern ''how will I pay for home heating oil when it's 30 percent more than last year, and I struggled to make ends meet then?'' ''How will I afford to pay half again as much for natural gas?'' People need to know now that they can count on us for assistance.

This is a necessity of life—so much so that 73 percent of households in a recent survey reported they would cut back on, and even go without, other necessities such as food, prescription drugs, and mortgage and rent payments. Churches, food pantries, local service organizations—they are all hearing the cry, and all the leaves aren't even yet off of the trees. The fact is, countless American's don't have room in their budget, many on fixed incomes, for this sudden surge in home heating prices but surely, in looking at our national priorities, we can find room in our budget to help Americans stay warm this winter.

Because of the supply disruptions caused by the hurricanes at a time when prices were already spiraling up, prices have been driven even higher and are directly affecting low income Mainers and how they will be able to pay for their home heating oil, propane and kerosene this winter. A recent Wall Street Journal quoted Jo-Ann Choate, who heads up Maine's LIHEAP program. Ms. Choate said, ''This year we've got a very good chance of running out.'' Eighty-four percent of the applicants for the LIHEAP program in the State use oil heat. Over 46,000 applied for and received State LIHEAP funds last winter. Each household received $480, which covered the cost of 275 gallons of heating oil.

The problem this winter is that the same $480 will buy only 172 gallons, which a household will use up in the first 3 to 4 weeks in Maine. What will these people do to stay warm for the four or five months left of winter? The water pipes will freeze and then break, damaging homes. People will start using their stoves to get heat. The Mortgage Bankers Association expects that the steep energy costs could increase the number of missed payments and lost homes beginning later this year. My State is expecting at least 48,000 applicants this winter, so there will be less money distributed to each household unless we can obtain higher funding for the LIHEAP program.

Ms. Choate says that Maine plans to focus on the elderly, disabled, and families with small children, and is studying how to move others to heated shelters. This is why our efforts are so very important. And it isn't just Maine, it is happening in all of the Nation's cold weather States. Quite simply, without increased funding, we are forcing the managers of State LIHEAP programs to make a Solomon's choice. I request that the Wall Street Journal article of October 6, 2005 be printed for the RECORD.

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

[From the Wall Street Journal, Oct. 6, 2005]

FEARING SHORTFALL LINKED TO HURRICANES, STATES SCRAMBLE TO STRETCH FEDERAL AID AMONG THE NEEDY

(By John J. Fialka)

WASHINGTON.—State managers of the $2 billion federal program that helps poor people pay their heating bills say that price increases following hurricanes Katrina and Rita could mean some homes will run out of fuel this winter.

The Low-Income Home Energy Assistance Program has helped consumers pay about half of the average $600 home heating bill in recent years. But this winter will be different. The Department of Energy estimates that the cost of heating an average home with oil will rise to $1,666 and to $1,568 for natural gas, but the federal money budgeted for the program remains the same.

''We're looking at a situation we've never really faced before,'' says Mark Wolfe, executive director of the National Energy Assistance Directors' Association, state agencies that funnel the federal money to people who meet state criteria for fuel help.

The problem will be most acute in Northern states, where running out of fuel poses health risks, particularly to the elderly, and could damage homes if water pipes freeze and then break. ''This year we've got a very good chance of running out,'' says Jo-Ann Choate, who manages the program for Maine's Housing Authority.

Her state's program has already received a host of new applications, but its buying power has shrunk. Last year, the program paid $480 for each household it assisted, covering the cost of 275 gallons of heating oil. This year, $480 will buy only 172 gallons. She figures that in a normal winter, ''That will go in the first three or four weeks.''

If there is a funding shortfall, Maine plans to focus the money it has on the elderly, disabled and families with small children. It is studying how to move others to heated shelters. ''We'll need to get people who know how to drain the pipes if people are moved out of their homes,'' Ms. Choate says. ''They'll have to be volunteers, though, because we'll have no money to pay them.''

In Wisconsin, Susan Brown, director of the state's energy-assistance program, says the program ''will pay less of a given heating bill.'' The number of clients—70% of whom use natural gas—has traditionally grown by 2% a year. This year, she worries that number could increase by as much as 30%. ''If that's the case,'' she warns, ''we will simply have to shut the program down.''

According to the Department of Health and Human Services, which provides the money to states, heating-bill increases are felt more acutely by the poor. In 2002, for example, the average household spent 5.9% of its income on heating compared with 12.6% spent by low-income households.

Additional help may be on the way as Congress and the Bush administration weigh proposals to increase funding. Senate Democrats led by Sen. John Kerry of Massachusetts are trying to add $3.1 billion to the program by attaching the money to a Defense Department spending bill.

''It is unthinkable that this administration would fail to have the emergency funds available to help families who need it the most,'' Sen. Kerry said in a statement, suggesting that Democrats will have a powerful issue for next year's elections if there is a shortfall of heating funds this winter.

A spokesman for the HHS, which added some emergency funds to the program during last year's heating season, said an increase in funding this year would be for Congress to decide. Paul Scofield, a spokesman for the House Appropriations Committee, said that ''we've always tried to keep this program funded,'' but added that, so far, it hasn't received any proposal to add money from the Bush administration.

''We've had a very mild winter in the last five or six years. If we get a real Montana winter this year, that's what's really got us spooked,'' says Jim Nolan, the heating program's director in Montana. Last year his program served 21,000 households, but about 85,000 are potentially eligible this year. With rising energy costs, he says, ''we could reach a tipping point and drive the number of applicants much higher.''

His department is lobbying for more assistance money from state electricity and gas utilities, which have a ''public purpose fund'' that earmarks 25 percent for energy assistance for the poor. This year, Mr. Nolan wants 70 percent of the money, which would take funding away from renewable-energy projects, such as solar and wind power.

Mr. Wolfe, who represents the state directors in Washington, says that without substantially more help from the federal government, the states and utilities will have to use a ''triage'' system to get families through the winter. In some states that will mean shifting more money to homes that use heating oil because oil distributors customarily won't deliver unless they are paid in advance, Mr. Wolfe says.

That means less money for utilities that supply natural gas. Those companies, on the other hand, are reluctant to cut off homes in the dead of winter. ''They'll get paid later,'' says Mr. Wolfe, who said legislatures in several states including Massachusetts, New York and some in the Midwest are pondering ways to supplement the federal funding.

The effects of a federal program stretched thin will be uneven, since some utilities have a much higher percentage of low-income customers than others. About three-fourths of the nation's home heating-oil customers are in New England.

In Montana, a state law forbids natural-gas companies from shutting off fuel to customers in the winter. But users of propane, a gas commonly used in rural areas, aren't protected.

Chemical companies and manufacturers that produce products using natural gas often have ''interruptible contracts,'' which means that if supplies run short, utilities will cut them off and send the gas to homeowners.

If there are frequent interruptions this winter, ''it's going to wash its way through the entire economy,'' predicts Charles Van Vlack, vice president of the American Chemistry Council, which represents 130 companies. ''Just saying industrial users are going to drop off of the [supply] system is a poor outcome. It's going to knock out jobs.''

The Federal Department of Energy has predicted that homeowners who use oil for heat and propane will spend 30 percent more this year than last, and natural gas users will spend 48 percent more. According to the National Energy Assistance Directors Association, heating costs for the average family using heating oil are projected to hit $1,666 for the upcoming winter. This represents an increase of $403 over last winter's prices and $714 over the winter heating season of 2003–2004.

For families using natural gas, prices are projected to hit $1,568, which is an increase of $611 over last year's price and $643 over 2003–2004. This is the largest increase in home heating prices in over 30 years. This is why our amendment is so very important.

Congress recently passed an Energy bill which is now law. In that bill, we authorized $5.1 billion for the LIHEAP program. My goal is to see that this is totally funded. We simply have to show that we meant what we asked for and totally fund the LIHEAP program. A total of $5.1 billion has already been authorized. All we are asking with this measure is to provide an additional $3.1 billion in emergency LIHEAP funding in additional to the $2 billion already requested by the President. Passage of this amendment to the Transportation/Treasury/Housing Appropriations bill is vital.

The facts are that LIHEAP is projected to help 5 million households nationwide this winter. But that's only about one-sixth of households across the country that qualify for the assistance. So this is a perennial fight we wage even when prices aren't as high as today. And now, that battle becomes all the more pivotal.

I want to thank Senators REED and COLLINS for their leadership on this amendment and I am proud to stand shoulder to shoulder with them to secure what is, in essence, literally life-or-death funding for our most vulnerable Americans. The cold weather won't wait and neither should we when it comes to helping citizens survive through the winter.

Mr. KENNEDY. Mr. President, with temperatures dropping, there are few more important duties than keeping our citizens safe and warm for the winter. Rising fuel prices give added urgency to our efforts to lend a hand to those who can't afford their heating bills.

Sadly, the gap between rich and poor has been widening in our society, especially in recent years. The number of persons living in poverty in the Nation has risen from 31 million in 2000 to 37 million today, a 19 percent increase during the Bush administration. Thirteen million children now live in poverty. Wages remain stagnant, while inflation inexorably sinks more and more families below the poverty line. The long-term unemployment rate is at historic highs. There is no excuse for America to continue to look the other way. Hurricane Katrina demonstrated the plight of minorities for all of us to see, for all the world to see. The ''silent slavery of poverty'' is not so silent any more.

For those in poverty, the American dream is a nightmare. Families stay awake at night worrying how to make ends meet. Parents wonder how they will feed their children and pay their bills.

Rising energy costs are a huge part of the problem. Significant numbers of citizens live with the constant threat of power shut-offs, because they can't pay their energy bills, and there's no relief in sight.

According to a recent report by the Energy Information Administration, the outlook for the coming winter is bleak. Home heating bills are likely to soar. Hurricanes Katrina and Rita have strained already-tight oil and natural gas production. According to the American Petroleum Institute, 20 percent of the Nation's refinery capacity is down or is restarting as a result of damage by both hurricanes.

On average, households heating primarily with natural gas will pay $350 more this winter for heat, an increase of an incredible 48 percent over last year. Those relying primarily on oil will pay $378 more, an increase of 32 percent.

These are not just abstract numbers. They represent huge burdens on real people. Just last week, Mayor Menino and I met with low-income seniors at the Curtis Hall Community Center in Massachusetts. They are scared that they won't be able to make ends meet this winter. They are worried about how they'll pay their high home heating bills. Predictions of a cold winter and sky-high fuel costs mean that the elderly, the disabled, and many others will be forced to make impossible choices between heating their homes and paying for food, or health care, or rent.

A Federal program is supposed to be available to help the poorest of the poor to avoid these unacceptable trade-offs. LIHEAP, the Low Income Home Energy Assistance Program, grants aid to low-income families who can't afford the steep cost of energy.

The number of households receiving this assistance has increased from 4 million in 2002 to 5 million this year, the highest level in ten years.

Ninety-four percent of LIHEAP households have at least one family member who is elderly, disabled, a child under the age of 18, or a single parent with a young child. 77 percent of LIHEAP recipients report an annual income at or below $20,000 and 61 percent of recipients have annual incomes at or below the poverty line.

Shameful, however, LIHEAP is not being given the funds needed to meet today's responsibilities. In fact, the President's budget funds the program at $2 billion which is almost the same today as when the program was created in 1981, the first year of the administration of President Ronald Reagan. Since then, heating oil prices have gone up 265 percent.

Meanwhile, demand for LIHEAP funding has increased. In Massachusetts, it serves 130,000 households, including 15,000 in Boston.

Eight thousand of the 12,000 fuel assistance applications sent out for this winter have already been returned, 1,500 more than this time last year.

With current funding, even those receiving LIHEAP assistance won't receive enough to last the entire winter.

In Massachusetts, one 71–year-old woman lives alone and keeps her thermostat set at 60 degrees to save money. She hopes the Federal Government will come through with more LIHEAP money before she runs out of ways to pay her heating bill. She says, ''I turn down the thermostat as low as I can and sometimes I turn it off and put on extra sweaters. I don't know how much longer I can keep doing this.''

Many families will struggle just to get their heat turned back on for the winter because they still owe money from last winter's bills.

Another example is a single mother who lives with her baby daughter. She's a nurse, but she lost her job in August 2004 has been relying on temporary jobs since then.

Her pay doesn't cover her bills, and her electricity has been cut off. She worries about how she can pay off her bills this winter.

It is wrong for us to let people like this suffer. So how does the Republican leadership in Congress respond? By cutting funds for essential low income programs.

In spite of Katrina, the administration and the House of Representatives continue to close their eyes to the long-term needs of the poor. Emergency aid was impossible for even the most hard-hearted Members of Congress to refuse. But as the spotlight fades it is back to poverty as usual. The House sent the Senate a continuing resolution which freezes funding for the LIHEAP program. But that funding obviously isn't enough. Nineteen percent of current LIHEAP recipients say they keep their home at a temperature they feel is unsafe or unhealthy. Eight percent report that their electricity or gas was shut off in the past year for nonpayment.

The continuing resolution also cut the Community Services Block Grant by 50 percent. These funds are used by many community action agencies to administer the LIHEAP assistance.

According to ABCD, a community action agency in Massachusetts whose neighborhood network handles the outreach and application process for LIHEAP, the cut in funding means that access to this critical survival resource will shrink by more than 70 percent. Up to 10,500 households, out of a current total of 15,000 recipients, may not get their benefits.

Those of us in Congress who care about this issue sent an urgent request to the President to increase the funds, but our request has gone unanswered.

We are here today to say that LIHEAP may not be on the administration's agenda, but it is on our agenda. That is why we are fighting so hard to increase LIHEAP funding. Senator KERRY and I offered an amendment on the DOD Appropriations bill to increase LIHEAP funding by $3.1 billion.

Almost every Democratic Senator voted for it, but the Republican Senators overwhelmingly opposed it and it was defeated. We will continue to raise this issue again and again and again, until our Nation's neediest families are fully protected this winter.

So I strongly support Senator REED's and Senator COLLINS' amendment to this appropriations bill, and I hope the Republican leadership will allow us to have an up or down vote on this amendment at some point during this debate.

Congress needs to stand up for the millions of Americans struggling to make ends meet. We need to tell low-income families across the country that we heard them, we care about them, and we don't intend to leave them shivering in the cold this winter.

LIHEAP is indispensable in filling that need. It is wrong for Congress to shortchange LIHEAP and the millions of families who need our help the most. Until every parent has a warm place to come home to every day, and every child has a warm bed to sleep in every night, our job is not done.

Mr. ENSIGN. Mr. President, I rise to speak to the amendment to enhance the Free File Alliance. The Free File Alliance is a partnership between the Internal Revenue Service and the private technology industry.

This voluntary program was created in 2002 after the IRS tried to create its

own tax preparation software and e-filing program at the taxpayers' expense. Such a program would have needlessly duplicated the resources and investments of the private sector. Instead, the Free File Alliance came into being, helping preserve voluntary compliance.

This Alliance provides free electronic tax preparation and e-filing services to lower income, disadvantaged and underserved taxpayers. In its first 3 years of existence, the Free File Alliance has donated some 10 million tax returns to American taxpayers and has helped significantly increase the number of e-filed tax returns. The success of this unique public-private partnership has been achieved at no cost to the taxpayers.

This alliance has benefited the American public. It has allowed the IRS to focus its resources and efforts on its congressionally authorized mission and objectives. The budget simply does not have room for waste or duplication, and the Free File public-private partnership has met an urgent need in the most cost-effective way possible.

There are long-standing program management issues that need to be corrected in the IRS oversight of the Free File program. For the first 3 years, the Service failed to make necessary management reforms. Congress has provided specific direction in terms of taxpayer protections, but the needed reforms have still not been put in place.

This amendment is fully consistent with all of the previous Congressional direction. It provides that the IRS and the Department of Treasury do not waiver from this direction. It will also ensure that the IRS does not provide all aspects of tax functions, including tax preparation services. That kind of conflict of interest cannot ever be permitted. The American people expect us to look out for their interests in such matters, to ensure fairness and balance in the system, and to protect their rights to voluntary compliance.

This amendment and accompanying report language should get the Free File program on track to achieve its intended purposes and objectives, and ensure that the IRS keeps its energies and resources focused on critical core missions, rather than spending precious public funds to try to expand them.

This is a basic good government, taxpayer-focused measure, and I ask my colleagues to join me in supporting this amendment.

NOTICE OF INTENT

Mr. DAYTON. Mr. President, in accordance with rule V of the standing rules of the Senate, I hereby give notice in writing of my intention to move to suspend Paragraph 4 of Rule XVI for the purpose of proposing to the Bill, H.R. 3058, the Transportation, Treasury, and Housing and Urban Development Appropriations Bill, the following amendment: No. 2143.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

MORNING BUSINESS

Mr. BOND. Mr. President, I ask unanimous consent the Senate turn to a period of morning business, with Senators permitted to speak therein for up to no more than 10 minutes.

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

BREAST CANCER AWARENESS MONTH

Mr. REID. Mr. President, as we pause to observe Breast Cancer Awareness Month, I would like to focus on the need to study the causes of this frightening disease, including the possible link between breast cancer and the environment.

Women diagnosed with breast cancer inevitably all ask the same question: Why me?

The unfortunate truth in all too many instances is, we don't know. Less than 30 percent of breast cancers are explained by known risk factors.

We don't know if the environment plays a role in the development of breast cancer. Studies have explored the effect of isolated environmental factors such as diet, pesticides, and even electromagnetic fields. In most cases, the results have been inconclusive. Furthermore, there are many other factors that are suspected to play a role that have yet to be studied.

We must find answers. While there is much we don't know, it is clear that a better understanding of the role the environment plays in the development of breast cancer could help to improve our understanding of the causes of breast cancer and could lead to prevention strategies.

For several years now, I have worked to pass bipartisan legislation, The Breast Cancer and Environmental Research Act, which would give scientists the tools they need to better understand any link between breast cancer and the environment. The Breast Cancer and Environmental Research Act would dedicate $30 million a year for 5 years for the National Institute of Environmental Health Sciences, NIEHS, to award grants to study the relationship between environmental factors and breast cancer. Under a competitive, peer-reviewed grant-making process that involves patient advocates, the NIEHS Director would award grants for the development and operation of up to eight centers for the purpose of conducting multi-disciplinary research.

To date, there has been only a limited research investment to study the role of the environment in the development of breast cancer—but we are making progress. Over the past several years, I have worked with my colleagues on the Senate Appropriations Committee to include appropriations language that has allowed the NIEHS to award grants to four research centers to begin to study the prenatal-to-adult environmental exposures that may predispose a woman to breast cancer.

This is a promising step in the right direction, but it is only a down payment on the task at hand. Moreover, the research strategy for these grants does not follow the nationally focused, collaborative, and comprehensive model as outlined in the Breast Cancer and Environmental Research Act.

More research must be done to determine the impact of the environment on breast cancer. If we miss promising research opportunities because Congress has failed to act, millions of women and their families will face difficult questions about breast cancer . . . and we won't have the answers.

These women and their families deserve answers. That's why we must work together to pass this bill, which enjoys broad bipartisan support. I urge my colleagues to observe Breast Cancer Awareness Month and to support the quest for answers about this deadly disease by supporting the Breast Cancer and Environmental Research Act.

Mr. CORZINE. Mr. President, I rise today in observance of National Breast Cancer Awareness Month. Today, 3 million American women are living with this disease. In 2005, an additional 200,000 women are expected to be diagnosed with invasive breast cancer and over 40,000 will die from this disease. While in recent years we have seen significant advances in breast cancer research, scientists are still researching many questions that remain unanswered regarding the causes and prevention of this disease.

I am particularly concerned about the likely impact that environmental factors have in contributing to the prevalence of breast cancer. That is why I support the bipartisan Breast Cancer Environmental Research Act, S. 757, which would provide $30 million a year for 5 years for the development and operation of multi-institutional, multi-disciplinary research centers to study environmental factors potentially linked to breast cancer. There is a clear need for research. We owe it to breast cancer survivors and victims to pass this legislation.

Over the past several years, New Jersey has consistently ranked in the top 10 states in the Nation for breast cancer incidence and mortality. That is why I feel especially strongly about supporting further progress and future advancements in the fight against this awful disease that will only continue to cause suffering among American women if we fail to act.

In addition to passing S. 757, we must also increase funding for the National Institutes of Health, NIH, the National Cancer Institute, NCI, and the Centers for Disease Control, CDC, all of which have played a major role in the development of improved treatment. Despite the critical role these agencies play in developing tools to fight and prevent cancer, the President and Republican-led Congress have significantly underfunded breast cancer initiatives at NIH, NCI, and CDC. We need to do more.

We need a collaborative, comprehensive, national strategy to study the etiology of breast cancer. The Breast Cancer Environmental Research Act would accomplish this. I urge all of my colleagues to observe National Breast Cancer Awareness month by supporting this critical piece of legislation.

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.

John Solis was attacked and beaten after a gay-pride event in Brooklyn, NY on June 29, 2004. A dozen people shouted anti-gay slurs at Solis. When he turned to confront them they attacked him with baseball bats. Solis's wrist was broken and he was hit in the head. The police were slow to respond and ineffective.

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.

Mr. KOHL. Mr. President, I rise today, as Breast Cancer Awareness Month comes to a close, to urge my colleagues to join me in cosponsoring S. 757, the Breast Cancer Environmental Research Act.

It has long been believed that the environment plays some role in the development of breast cancer, but the extent of that role is not understood. Today, less than 30 percent of breast cancers are explained by known risk factors. There are studies exploring the effect of things like diet, pesticides, and electromagnetic fields on breast cancer incidence, but in most cases, these and many other environmental factors that are also suspected to play a role have not been fully investigated. We need a collaborative, comprehensive, national strategy to explore these issues.

The Breast Cancer Environmental Research Act would create a uniquely targeted research plan, similar in design to the incredibly efficient Department of Defense Peer Reviewed Breast Cancer Research Program. This bill would authorize $30 million a year for 5 years for the National Institute of Environmental Health Sciences, NIEHS, to award grants to study the relationship between environmental factors and breast cancer. Under a competitive, peer-reviewed grantmaking process that involves patient advocates, the NIEHS Director would award grants for the development and operation of up to eight centers for the purpose of conducting multidisciplinary research. It would require collaboration with community organizations in the area, including those that represent women with breast cancer, as an integral component of the centers. Inherent in its structure would be the kind of efficiency, and public accountability that has made an overwhelming number of my colleagues, as well as scientists and consumers, so supportive of the Department of Defense Breast Cancer Research Program.

In honor of Breast Cancer Awareness Month, I urge my colleagues to join me and continue to fight the war on breast cancer, and invest in getting the answers to eradicating this disease.

ADDITIONAL STATEMENTS

TRIBUTE TO BOB SPARBOE

• Mr. COLEMAN. Mr. President, I would like to pay tribute to a Minnesota hero and an American hero, Robert Sparboe, who passed away last week. If anyone around the world wanted to know why this is the greatest country in the world, I would tell them: Take a look at the life of Bob Sparboe. He is proof positive that the surest path to success is working hard in a free society.

Bob Sparboe found his success in the egg business. He went from a $5,000 investment after the Korean war to a $260 million operation employing 600 people in four States. If anyone in the sound of my voice has ever eaten an egg in a Midwestern restaurant, you are one of his customers. He has presided over 10 million hens laying over 2 billion eggs a year.

I often wonder from where Americans are getting their values. I sure hope it is not from overhyped rock stars, movie stars, and media creations. One of the values of our State of Minnesota is people are usually only one generation or one set of relations removed from the farm. We learn what farmers know; there are four seasons to life: planting, growing, harvesting, and resting. Not much of value is produced by people who cram. There are seasons and rhythms to life that must be understood and respected.

Bob was a wealth of wisdom. Here are a few of his gems collected from an article written honoring him last year:

The smartest thing you can do is hire someone who is more capable than you are.

It's better to have an average plan with superior execution than a superior plan with average execution.

A good leader creates leaders out of his followers. And a really good leader creates moral agents.

Leadership is about coping with change. Management is about coping with complexity.

You need to adopt the attitude that ''I will succeed, not only in spite of my limitations, but because of them.''

We get pretty full of ourselves in this city, imagining that we are running the world. But all the success our Nation achieves comes from the hard work, risk taking, and character of regular folks like Bob Sparboe, who achieve beyond their wildest dreams. His life was the American dream incarnate. We offer our condolences to his family and friends. And we are grateful to have had the privilege to know a person of such great character, drive and wisdom.

Mr. President, I ask that the following statement from former United States Senator Rudolph E. Boschwitz be printed in the RECORD.

The statement follows:

Picture a young Bob Sparboe, just back from the Army, his head full of dreams, eager to start his own business eager to make his first deal, and there he was young Bob sitting across the desk from the banker in Litchfield, Minnesota. Bankers always appear in this kind of story as a scowling, unfriendly, bunch of fellows. Bob never commented about that, but he needed $1,400 for just 21 days. Scowl or not, the banker must have had some doubts. The normal borrower didn't come in for a 21-day loan.

Bob eventually solved the problem by buying the bank—something he never would have believed that day many years ago. He got the loan. He made the deal. And he paid the banker back on time.

His head was full of dreams. And one of the endearing and enduring elements of Bob's life was that he never stopped dreaming. Ambition didn't fade as he aged. And he lived his ever-enlarging dreams to their fullest. Not only with regard to his business, but with his wonderful family as well.

Not everybody knew Bob and I would occasionally introduce him as a man who had six million chickens laying eggs and doing so with regularity. Not too long ago, Bob corrected me to say with quiet pride, ''It is now twelve million, Rudy.''

Bob and I both admired Ronald Reagan and Reagan would often say, ''If you give people enough freedom and opportunity, ordinary people will achieve extraordinary things.''

Bob was such a person Bob proved Reagan right. Bob recognized what the promise of America had given him and it filled his heart with a deep and abiding love for this great country. It was in that way—through the political process—that I met Bob and Deanna and other members of their family and the Sparboe Farms family as well.

Some may believe that our country's greatness was achieved by politicians sitting in Washington or St. Paul and indeed it is their names that fill the history books. But they were not the builders. Their actions preserved and enhanced the opportunities and freedoms, but the builders of democracy are and were the Bob Sparboes of our country.

People who had dreams. People who were willing to take risks—even for 21 days—and then never stopped dreaming and working full time to achieve those ever-enlarging dreams.

So Bob will be missed not only by a very loving family, but America will miss Bob as well.

We have lost not only a friend, a father, a husband and grandfather, but America has lost one of the finest builders of its greatness. One of its proudest sons.

Bob Sparboe—an extraordinary life, an extraordinary example of the wonders of democracy.•

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.)

REPORT RELATIVE TO THE CONTINUATION OF THE NATIONAL EMERGENCY DECLARED IN EXECUTIVE ORDER 12978 WITH RESPECT TO SIGNIFICANT NARCOTICS TRAFFICKERS CENTERED IN COLOMBIA—PM 27

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 Banking, Housing, and Urban Affairs.

To the Congress of the United States:

Section 202(d) of the National Emergencies Act, 50 U.S.C. 1622(d), provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice to the *Federal Register* for publication, stating that the emergency declared with respect to significant narcotics traffickers centered in Colombia is to continue in effect beyond October 21, 2005. The most recent notice continuing this emergency was published in the *Federal Register* on October 20, 2004 (69 Fed. Reg. 61733).

The circumstances that led to the declaration on October 21, 1995, of a national emergency have not been resolved. The actions of significant narcotics traffickers centered in Colombia continue to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States and to cause unparalleled violence, corruption, and harm in the United States and abroad. For these reasons, I have determined that it is necessary to maintain economic pressure on significant narcotics traffickers centered in Colombia by blocking their property and interests in property that are in the United States or within the possession or control of United States persons and by depriving them of access to the U.S. market and financial system.

GEORGE W. BUSH.

THE WHITE HOUSE, *October 19, 2005*.

MESSAGE FROM THE HOUSE

At 2:42 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 177. An act to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Prado Basin Natural Treatment System Project, to authorize the Secretary to carry out a program to assist agencies in projects to construct regional brine lines in California, to authorize the Secretary to participate in the Lower Chino Dairy Area desalination demonstration and reclamation project, and for other purposes.

H.R. 1409. An act to amend the Foreign Assistance Act of 1961 to provide assistance for orphans and other vulnerable children in developing countries, and for other purposes.

H.R. 3549. An act 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. An act to designate the facility of the United States Postal Service located at 130 East Marion Avenue in Punta Gorda, Florida, as the ''U.S. Cleveland Post Office Building''.

H.R. 3853. An act 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.

The message also announced that the House agree to the amendment of the Senate to the bill H.R. 3971, an act to provide assistance to individuals and States affected by Hurricane Katrina, with amendments, in which it requests the concurrence of the Senate.

ENROLLED BILL SIGNED

The message further announced that the Speaker of the House of Representatives has signed the following enrolled bills:

S. 156. An act to designate the Ojito Wilderness Study Area as wilderness, to take certain land into trust for the Pueblo of Zia, and for other purposes.

S. 55. An act to adjust the boundary of Rocky Mountain National Park in the State of Colorado.

The enrolled bills were signed subsequently by the President pro tempore (Mr. STEVENS).

The following enrolled bill, previously signed by the Speaker of the House, was signed today, October 19, 2005, by the President pro tempore (Mr. STEVENS).

H.R. 3765. An act to extend through March 31, 2006, the authority of the Secretary of the Army to accept and expend funds contributed by non-Federal public entities and to expedite the processing of permits.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 177. An act to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Prado Basin Natural Treatment System Project, to authorize the Secretary to carry out a program to assist agencies in projects to construct regional brine lines in California, to authorize the Secretary to participate in the Lower Chino Dairy Area desalination demonstration and reclamation project, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 3549. An act 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''; to the Committee on Homeland Security and Governmental Affairs.

H.R. 3830. An act to designate the facility of the United States Postal Service located at 130 East Marion Avenue in Punta Gorda, Florida, as the ''U.S. Cleveland Post Office Building''; to the Committee on Homeland Security and Governmental Affairs.

H.R. 3853. An act 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; to the Committee on Homeland Security and Governmental Affairs.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, October 19, 2005, she had presented to the President of the United States the following enrolled bills:

S. 55. An act to adjust the boundary of Rocky Mountain National Park in the State of Colorado.

S. 156. An act to designate the Ojito Wilderness Study Area as wilderness, to take certain land into trust for the Pueblo of Zia, and for other purposes.

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–4271. A communication from the Chairman, U.S. Merit Systems Protection Board, transmitting, pursuant to law, a report entitled ''The Probationary Period: A Critical Assessment Opportunity''; to the Committee on Homeland Security and Governmental Affairs.

EC–4272. A communication from the Chairman, Federal Housing Finance Board, transmitting, pursuant to law, the Board's 2006 Annual Performance Budget; to the Committee on Homeland Security and Governmental Affairs.

EC–4273. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled ''Retirement Credit for Certain Government Service Performed Abroad'' (RIN3206–AK84) received on October 11, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–4274. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–170, ''Walter Reed Property Tax Exemption Reconfirmation Act of 2005''; to the Committee on Homeland Security and Governmental Affairs.

EC–4275. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–171, ''Prescription Drug Excessive Pricing Act of 2005''; to the Committee on Homeland Security and Governmental Affairs.

EC–4276. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–172, ''Brentwood Retail Center Real Property Tax Exemption Temporary Act of 2005''; to the Committee on Homeland Security and Governmental Affairs.

EC–4277. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–173, ''District of Columbia Bus Shelter Temporary Amendment Act of 2005''; to the Committee on Homeland Security and Governmental Affairs.

EC–4278. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–182, ''Dog Park Establishment Amendment Act of 2005''; to the Committee on Homeland Security and Governmental Affairs.

EC–4279. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–183, ''District of Columbia Emancipation Day Alternate Date Temporary Amendment Act of 2005''; to the Committee on Homeland Security and Governmental Affairs.

EC–4280. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–184, ''Income Withholding Transfer and Revision Temporary Amendment Act of 2005''; to the Committee on Homeland Security and Governmental Affairs.

EC–4281. A communication from the Assistant Secretary, Policy Management and Budget, Department of the Interior, transmitting, pursuant to law, the Department's annual report on grants streamlining and standardization; to the Committee on Energy and Natural Resources.

EC–4282. A communication from the Attorney, Office of Assistant General Counsel for Legislation and Regulatory Law, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''Guidelines for Voluntary Greenhouse Gas Reporting'' (RIN1901–AB11) received on October 11, 2005; to the Committee on Energy and Natural Resources.

EC–4283. A communication from the Acting Assistant Secretary of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Oil And Gas Leasing; Geothermal Resources Leasing; Coal Management; Management of Solid Minerals Other than Coal; Mineral Materials Disposal; and Mining Claims Under the General Mining Laws (Cost Recovery)'' (RIN1004–AC64) received on October 11, 2005; to the Committee on Energy and Natural Resources.

EC–4284. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, a report describing the efforts undertaken by the Department of Justice (DOJ), Office of Victims of Crime (OVC) during Fiscal Years 2003 and 2004; to the Committee on the Judiciary.

EC–4285. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, the Office of Justice Programs (OJP) Annual Report for Fiscal Years 2003 and 2004; to the Committee on the Judiciary.

EC–4286. A communication from the Chairman, United States Commission on Civil Rights, transmitting, pursuant to law, a report entitled ''Federal Procurement After Adarand''; to the Committee on the Judiciary.

EC–4287. A communication from the White House Liaison, Department of Justice, transmitting, pursuant to law, the report of the designation of an acting officer for the position of United States Attorney/Western District of Oklahoma, received on October 11, 2005; to the Committee on the Judiciary.

EC–4288. A communication from the White House Liaison, Department of Justice, transmitting, pursuant to law, the report of the designation of an acting officer for the position of United States Attorney/Western District of Tennessee, received on October 11, 2005; to the Committee on the Judiciary.

EC–4289. A communication from the White House Liaison, Department of Justice, transmitting, pursuant to law, the report of the designation of an acting officer for the position of United States Attorney/Southern District of West Virginia, received on October 11, 2005; to the Committee on the Judiciary.

EC–4290. A communication from the White House Liaison, Department of Justice, transmitting, pursuant to law, the report of the designation of an acting officer for the position of First Assistant, received on October 11, 2005; to the Committee on the Judiciary.

EC–4291. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency declared in Executive Order 12978 of October 21, 1995, with respect to significant narcotics traffickers centered in Colombia; to the Committee on Banking, Housing, and Urban Affairs.

EC–4292. A communication from the President, Southwestern Indian Polytechnic Institute, Bureau of Indian Affairs, Department of the Interior, transmitting, pursuant to law, a report relative to the extension of the Personnel Demonstration Project timeline expiration (October 31, 2005) for a period of two years; to the Committee on Indian Affairs.

EC–4293. A communication from the Secretary of Defense, transmitting, pursuant to law, a report in response to the Electromagnetic Pulse (EMP) Commission's Report; to the Committee on Armed Services.

EC–4294. A communication from the Under Secretary of Defense for Personnel and Readiness, transmitting, a report on the approved retirement of Vice Admiral Gerald L. Hoewing, United States Navy, and his advancement to the grade of vice admiral on the retired list; to the Committee on Armed Services.

EC–4295. A communication from the Under Secretary of Defense for Personnel and Readiness, transmitting, a report on the approved retirement of Lieutenant General Michael A. Hough, United States Marine Corps, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

EC–4296. A communication from the Under Secretary of Defense for Personnel and Readiness, transmitting, a report on the approved retirement of General Kevin P. Byrnes, United States Army, and the grade of lieutenant general on the retired list; to the Committee on Armed Services.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 206. A bill to designate the Ice Age Floods National Geologic Trail, and for other purposes (Rept. No. 109–144).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

S. 242. A bill to establish 4 memorials to the Space Shuttle Columbia in the State of Texas (Rept. No. 109–145).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 584. A bill to require the Secretary of the Interior to allow the continued occupancy and use of certain land and improvements within Rocky Mountain National Park (Rept. No. 109–146).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, without amendment:

S. 652. A bill to provide financial assistance for the rehabilitation of the Benjamin Franklin National Memorial in Philadelphia, Pennsylvania, and the development of an exhibit to commemorate the 300th anniversary of the birth of Benjamin Franklin (Rept. No. 109–147).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 895. A bill to direct the Secretary of the Interior to establish a rural water supply program in the Reclamation States to provide a clean, safe affordable, and reliable water supply to rural residents (Rept. No. 109–148).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment:

S. 955. A bill to direct the Secretary of the Interior to conduct a special resource study to determine the suitability and feasibility of including in the National Park System certain sites in Williamson County, Tennessee, relating to the Battle of Franklin (Rept. No. 109–149).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with amendments:

S. 958. A bill to amend the National Trails System Act to designate the Star–Spangled Banner Trail in the States of Maryland and Virginia and the District of Columbia as a National Historic Trail (Rept. No. 109–150).

S. 1154. A bill to extend the Acadia National Park Advisory Commission, to provide improved visitor services at the park, and for other purposes (Rept. No. 109–151).

S. 1238. A bill to amend the Public Lands Corps Act of 1993 to provide for the conduct of projects that protect forests, and for other purposes (Rept. No. 109–152).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, without amendment:

S. 1627. A bill to authorize the Secretary of the Interior to conduct a special resources study to evaluate resources along the coastal region of the State of Delaware and to determine the suitability and feasibility of establishing a unit of the National Park System in Delaware (Rept. No. 109–153).

H.R. 126. A bill to amend Public Law 89–366 to allow for an adjustment in the number of free roaming horses permitted in Cape Lookout National Seashore (Rept. No. 109–154).

H.R. 539. A bill to designate certain National Forest System land in the Commonwealth of Puerto Rico as components of the National Wilderness Preservation System (Rept. No. 109–155).

H.R. 584. A bill to authorize the Secretary of the Interior to recruit volunteers to assist with, or facilitate, the activities of various agencies and offices of the Department of the Interior (Rept. No. 109–156).

H.R. 606. A bill to authorize appropriations to the Secretary of the Interior for the restoration of the Angel Island Immigration Station in the State of California (Rept. No. 109–157).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. ENZI for the Committee on Health, Education, Labor, and Pensions.

*John O. Agwunobi, of Florida, to be an Assistant Secretary of Health and Human Services.

*Mark S. Schneider, of the District of Columbia, to be Commissioner of Education Statistics for a term expiring June 21, 2009.

*Bertha K. Madras, of Massachusetts, to be Deputy Director for Demand Reduction, Office of National Drug Control Policy.

*Diane Rivers, of Arkansas, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2009.

*Sandra Frances Ashworth, of Idaho, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2009.

*Jan Cellucci, of Massachusetts, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2009.

*Christine M. Griffin, of Massachusetts, to be a Member of the Equal Employment Opportunity Commission for a term expiring July 1, 2009.

*Naomi Churchill Earp, of Virginia, to be a Member of the Equal Employment Opportunity Commission for a term expiring July 1, 2010.

*Mark Hofflund, of Idaho, to be a Member of the National Council on the Arts for the remainder of the term expiring September 3, 2008.

*John O. Agwunobi, of Florida, to be Medical Director in the Regular Corps of the Public Health Service, subject to the qualifications therefore as provided by law and regulations.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. KERRY (for himself, Mr. KENNEDY, and Mr. JEFFORDS):

S. 1887. A bill to authorize the conduct of small projects for the rehabilitation or removal of dams; to the Committee on Environment and Public Works.

By Mr. JEFFORDS (for himself and Mr. FEINGOLD):

S. 1888. A bill to provide for 2 programs to authorize the use of leave by caregivers for family members of certain individuals performing military service, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. HAGEL:

S. 1889. A bill to establish the Comprehensive Entitlement Reform Commission; to the Committee on Finance.

By Mr. BAUCUS (for himself, Mr. GRASSLEY, and Mr. MCCAIN):

S. 1890. A bill to amend the Internal Revenue Code of 1986 to deny a deduction for certain fines, penalties, and other amounts; to the Committee on Finance.

By Ms. MURKOWSKI (for herself, Mr. STEVENS, Mr. AKAKA, and Mr. INOUYE):

S. 1891. A bill to authorize the leasing, development, production, and economically feasible and prudent transportation of oil and gas in and from the Coastal Plain, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MCCAIN (for himself and Mr. DORGAN):

S. 1892. A bill to amend Public Law 107–153 to modify a certain date; to the Committee on Indian Affairs.

By Mr. SANTORUM:

S. 1893. A bill to permit biomedical research corporations to engage in certain financings and other transactions without incurring limitations on net operating loss carryforwards and certain built-in losses, and for other purposes; to the Committee on Finance.

By Mr. INHOFE (for himself, Mr. ROCKEFELLER, Ms. LANDRIEU, and Mr. CRAIG):

S. 1894. A bill to amend part E of title IV of the Social Security Act to provide for the making of foster care maintenance payments to private for-profit agencies; considered and passed.

By Mr. ENSIGN (for himself, Mr. INHOFE, and Mr. DEMINT):

S. 1895. A bill to return meaning to the Fifth Amendment by limiting the power of eminent domain; to the Committee on Finance.

By Mr. SANTORUM:

S. 1896. A bill to permit access to Federal crime information databases by educational agencies for certain purposes; to the Committee on the Judiciary.

By Mr. CORZINE (for himself and Mr. DODD):

S. 1897. A bill to amend the Forest and Rangeland Renewable Resources Planning Act of 1974 and related laws to strengthen the protection of native biodiversity and ban clearcutting on Federal land, and to designate certain Federal land as Ancient forests, roadless areas, watershed protection areas, and special areas where logging and other intrusive activities are prohibited; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DODD (for himself, Mr. ENSIGN, Mr. AKAKA, Mrs. BOXER, Mr. BURNS, Mr. BURR, Ms. CANTWELL, Mr. CARPER, Mrs. CLINTON, Mr. COCHRAN, Ms. COLLINS, Mr. CORNYN, Mr. CORZINE, Mr. DAYTON, Mr. DURBIN, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. INOUYE, Mr. KERRY, Mr. KOHL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEVIN, Mr. LIEBERMAN, Ms. MIKULSKI, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Nebraska, Mr. REID, Mr. SALAZAR, Ms. SNOWE, Mr. SPECTER, and Ms. STABENOW):

S. Res. 280. A resolution supporting ''Lights On Afterschool'', a national celebration of after school programs; considered and agreed to.

By Mr. FRIST (for himself and Mr. REID):

S. Res. 281. A resolution honoring and thanking James Patrick Rohan; considered and agreed to.

By Mr. BROWNBACK:

S. Con. Res. 59. A concurrent resolution recognizing the 40th anniversary of the White House Fellows Program; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 385

At the request of Mr. FEINGOLD, his name was added as a cosponsor of S. 385, a bill to amend the Food Security Act of 1985 to restore integrity to and strengthen payment limitation rules for commodity payments and benefits.

S. 513

At the request of Mr. GREGG, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 513, a bill to provide collective bargaining rights for public safety officers employed by States or their political subdivisions.

S. 769

At the request of Ms. SNOWE, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 769, a bill to enhance compliance assistance for small businesses.

S. 859

At the request of Mr. SANTORUM, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 859, a bill to amend the Internal Revenue Code of 1986 to allow an income tax credit for the provision of homeownership and community development, and for other purposes.

S. 1016

At the request of Mr. MARTINEZ, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1016, a bill to direct the Secretary of Energy to make incentive payments to the owners or operators of qualified desalination facilities to partially offset the cost of electrical energy required to operate the facilities, and for other purposes.

S. 1038

At the request of Mr. LUGAR, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 1038, a bill to amend the Farm Security and Rural Investment Act of 2002 to enhance the ability to produce fruits and vegetables on covered commodity base acres.

S. 1081

At the request of Mr. KYL, the name of the Senator from South Carolina (Mr. DEMINT) was added as a cosponsor of S. 1081, a bill to amend title XVIII of the Social Security Act to provide for a minimum update for physicians' services for 2006 and 2007.

S. 1120

At the request of Mr. DURBIN, the names of the Senator from Massachusetts (Mr. KENNEDY) and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of S. 1120, a bill to reduce hunger in the United States by half by 2010, and for other purposes.

S. 1139

At the request of Mr. SANTORUM, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 1139, a bill to amend the Animal Welfare Act to strengthen the ability of the Secretary of Agriculture to regulate the pet industry.

S. 1272

At the request of Mr. NELSON of Nebraska, the names of the Senator from Minnesota (Mr. COLEMAN) and the Senator from California (Mrs. FEINSTEIN)

were added as cosponsors of S. 1272, a bill to amend title 46, United States Code, and title II of the Social Security Act to provide benefits to certain individuals who served in the United States merchant marine (including the Army Transport Service and the Naval Transport Service) during World War II.

S. 1353

At the request of Mr. REID, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 1353, a bill to amend the Public Health Service Act to provide for the establishment of an Amyotrophic Lateral Sclerosis Registry.

S. 1405

At the request of Mr. NELSON of Nebraska, the names of the Senator from Massachusetts (Mr. KERRY), the Senator from West Virginia (Mr. ROCKEFELLER), the Senator from Montana (Mr. BURNS) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 1405, a bill to extend the 50 percent compliance threshold used to determine whether a hospital or unit of a hospital is an inpatient rehabilitation facility and to establish the National Advisory Council on Medical Rehabilitation.

S. 1597

At the request of Mrs. CLINTON, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. 1597, a bill to award posthumously a Congressional gold medal to Constantino Brumidi.

S. 1700

At the request of Mr. COBURN, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 1700, a bill to establish an Office of the Hurricane Katrina Recovery Chief Financial Officer, and for other purposes.

S. 1706

At the request of Mr. ALLEN, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 1706, a bill to amend the Internal Revenue Code of 1986 to provide that distributions from a section 401(k) plan or a section 403(b) contract shall not be includible in gross income to the extent used to pay long-term care insurance premiums.

S. 1735

At the request of Ms. CANTWELL, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1735, a bill to improve the Federal Trade Commissions's ability to protect consumers from price-gouging during energy emergencies, and for other purposes.

S. 1740

At the request of Mr. CRAPO, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 1740, a bill to amend the Internal Revenue Code of 1986 to allow individuals to defer recognition of reinvested capital gains distributions from regulated investment companies.

S. 1793

At the request of Mr. BINGAMAN, the names of the Senator from Kansas (Mr. BROWNBACK) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 1793, a bill to extend certain apportionments to primary airports.

S. 1795

At the request of Mr. JOHNSON, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1795, a bill to amend the Social Security Act to protect Social Security cost-of-living adjustments (COLA).

S. 1813

At the request of Mr. CRAIG, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 1813, a bill to amend titles 10 and 38 of the United States Code, to modify the circumstances under which a person who has committed a capital offense is denied certain burial-related benefits and funeral honors.

S. 1841

At the request of Mr. NELSON of Florida, the names of the Senator from Illinois (Mr. DURBIN), the Senator from New York (Mrs. CLINTON) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 1841, a bill to amend title XVIII of the Social Security Act to provide extended and additional protection to Medicare beneficiaries who enroll for the Medicare prescription drug benefit during 2006.

S. 1860

At the request of Mr. DOMENICI, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1860, a bill to amend the Energy Policy Act of 2005 to improve energy production and reduce energy demand through improved use of reclaimed waters, and for other purposes.

S. 1873

At the request of Mr. BURR, the name of the Senator from North Carolina (Mrs. DOLE) was added as a cosponsor of S. 1873, a bill to prepare and strengthen the biodefenses of the United States against deliberate, accidental, and natural outbreaks of illness, and for other purposes.

S. 1880

At the request of Mr. KENNEDY, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of S. 1880, a bill to amend the Public Health Service Act to enhance biodefense and pandemic preparedness activities, and for other purposes.

S. CON. RES. 46

At the request of Mr. BROWNBACK, the name of the Senator from South Carolina (Mr. DEMINT) was added as a cosponsor of S. Con. Res. 46, a concurrent resolution expressing the sense of the Congress that the Russian Federation should fully protect the freedoms of all religious communities without distinction, whether registered and unregistered, as stipulated by the Russian Constitution and international standards.

S. RES. 180

At the request of Mr. SCHUMER, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. Res. 180, a resolution supporting the goals and ideals of a National Epidermolysis Bullosa Awareness Week to raise public awareness and understanding of the disease and to foster understanding of the impact of the disease on patients and their families.

S. RES. 273

At the request of Mr. COLEMAN, the name of the Senator from Florida (Mr. MARTINEZ) was added as a cosponsor of S. Res. 273, a resolution expressing the sense of the Senate that the United Nations and other international organizations shall not be allowed to exercise control over the Internet.

AMENDMENT NO. 2063

At the request of Mr. KENNEDY, the names of the Senator from Maryland (Ms. MIKULSKI) and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of amendment No. 2063 proposed to H.R. 3058, a bill making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes.

At the request of Mr. DURBIN, his name was added as a cosponsor of amendment No. 2063 proposed to H.R. 3058, supra.

AMENDMENT NO. 2065

At the request of Mr. BINGAMAN, the names of the Senator from Pennsylvania (Mr. SPECTER), the Senator from West Virginia (Mr. ROCKEFELLER) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of amendment No. 2065 intended to be proposed to H.R. 3058, a bill making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 2070

At the request of Ms. COLLINS, the names of the Senator from North Dakota (Mr. DORGAN) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of amendment No. 2070 proposed to H.R. 3058, a bill making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 2072

At the request of Mr. BOND, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of amendment No. 2072 proposed to H.R. 3058, a bill making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies

for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 2074

At the request of Mr. SANTORUM, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of amendment No. 2074 intended to be proposed to H.R. 3058, a bill making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 2075

At the request of Mr. FRIST, the names of the Senator from North Carolina (Mrs. DOLE), the Senator from Michigan (Ms. STABENOW) and the Senator from New York (Mrs. CLINTON) were added as cosponsors of amendment No. 2075 intended to be proposed to H.R. 3058, a bill making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 2077

At the request of Mr. REED, the names of the Senator from Connecticut (Mr. DODD), the Senator from Illinois (Mr. OBAMA), the Senator from Rhode Island (Mr. CHAFEE) and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of amendment No. 2077 proposed to H.R. 3058, a bill making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 2078

At the request of Mr. DORGAN, the names of the Senator from Minnesota (Mr. DAYTON) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of amendment No. 2078 proposed to H.R. 3058, a bill making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 2108

At the request of Mr. VOINOVICH, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of amendment No. 2108 intended to be proposed to H.R. 3058, a bill making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KERRY (for himself, Mr. KENNEDY, and Mr. JEFFORDS):

S. 1887. A bill to authorize the conduct of small projects for the rehabilitation or removal of dams; to the Committee on Environment and Public Works.

Mr. KERRY. Mr. President, today I joined Senator KENNEDY, Representative FRANK, Governor Romney and Mayor Robert Nunes on a tour of the deteriorating dam in Taunton, MA. The dam buckled earlier this week under the pressure of heavy rain. Since the beginning of this month, Taunton has received 11½ inches of rain, with more than 7 inches of that from Friday through Sunday.

As of this morning, the city remained under a state of emergency and there was still a significant amount of water behind the Whittenton Pond Dam on the Mill River. In speaking with local officials, they expressed fear that a major break in the dam could send 6 feet of water surging through downtown Taunton, flooding businesses and destroying homes.

For now, the situation is under control but still extremely volatile. It appears we may have gotten lucky—but just because the waters are receding doesn't mean our work is through. Doing everything possible means the Federal Government has to give mayors and governors every tool they need to protect their communities.

Today, the Army Corps of Engineers can help in Taunton only because it's an emergency—and everyone who has been praying that the dam doesn't break knows just what an emergency this has been. But according to the law, it's only at that point of no return that the Corps can step in. The Army Corps of Engineers has no authority to try to prevent a situation like this. Before the water came pouring through and 2,000 people were evacuated from their homes, the Corps was powerless to fix this dam.

But it's not just on the Mill River—we have 3,000 privately-owned dams in Massachusetts. The Army Corps of Engineers shouldn't be handcuffed by bureaucratic red tape until we reach the point of a make-it-or-break-it crisis. If Hurricane Katrina taught us anything, it's that we can't let bureaucracy get in the way of preventing a pending disaster or responding to a looming threat.

For that reason, I am introducing a bill to give the Army Corps of Engineers the ability to intervene to repair privately-owned dams for the sake of public safety. That way, the Corps can help in the kind of effort Governor Romney is now undertaking to inspect and strengthen dams across the State. Senator KENNEDY is co-sponsoring this bill, and we will work together to make it law.

By Mr. JEFFORDS (for himself and Mr. FEINGOLD):

S. 1888. A bill to provide for 2 programs to authorize the use of leave by caregivers for family members of certain individuals performing military service, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. JEFFORDS. Mr. President, today I am pleased to introduce the Military Family Support Act of 2005 with my colleague and friend from Wisconsin, Senator RUSS FEINGOLD. Our bill will help military families ease the stress caused by long-term absences due to deployments overseas.

I was contacted a few months back by a group of Vermonters looking for a way to help their coworkers with family in the Vermont National Guard. When a member of the armed forces is activated and deployed, family structures and daily functioning are severely affected. The day-to-day life of families is, in many cases, more than a one-person job. Any absence, especially absences of several months due to a deployment overseas, can be debilitating to family life. The stories of soldiers and their families from Enosburg Falls, VT, were told very poignantly in a piece reported by the Los Angeles Times. Enosburg and neighboring communities have contributed a disproportionately high number of National Guard troops to Operation Iraqi Freedom. Because of this, Enosburg's men and women have felt the pains of separation and long deployments more than most. Enosburg and surrounding towns and villages should be proud of the sacrifices made by their men and women in uniform and by those employers and family members who remained at home. Vermont is a place where neighbors help neighbors and I am proud of all the people throughout the state who have given so much support to Guard families.

The Military Family Support Act of 2005 is a straightforward bill that proposes two pilot programs. The first pilot program, administered by the Office of Personnel Management, OPM, would authorize Federal employees, who have been designated by a member of the Armed Forces as ''caregivers'', as defined by the Department of Defense, DOD, to use their leave in a more flexible manner. No new leave would be conferred to any employees. This bill simply makes leave already available more useful during stressful times for military families. The second pilot program would be established by the Department of Labor, DOL, to solicit businesses to voluntarily take part in a program to offer more accommodating leave to their employees. This bill does not include in its scope the Family Medical Leave Act, FMLA, and it does not require any private sector entity to participate. The goal of the Military Family Support Act is to make life a little easier for those who are already giving so much to our country and to their communities.

I ask unanimous consent that a May 2, 2005, article from the Los Angeles Times be printed in the RECORD. I also ask unanimous consent that the text of the Military Family Support Act of 2005 be printed in RECORD.

There being no objection, the materials were printed in the RECORD, as follows:

[From the Los Angeles Times, May 2, 2005]

A TOWN CALLED TO DUTY

(By Elizabeth Mehren)

FOR A RURAL VERMONT COMMUNITY, THE CONFLICT IN IRAQ HITS HOME. WITH ITS GUARDSMEN DEPLOYED, LOCALS BAND TOGETHER TO COVER THEIR ABSENCE

For four years, Matt Tracy spent his days pumping gas and repairing car engines at Mark LaRose's Texaco on Main Street. At night, the 33-year-old father of two studied law. He fended off frequent entreaties from military recruiters and held fast to his dream of becoming a litigator.

Then in December, LaRose was called up for active duty, along with the entire National Guard unit in this remote, rural town of 1,473. The deployment of 88 men in Company B, 1st Battalion, 172nd Armor Regiment, 42nd Infantry Division—better known as Bravo Company—has touched just about everyone in the area.

For Tracy, it meant his plans to exchange his wrench for an attache case went on hold.

''Right now I am just going to be a well-educated mechanic,'' he said, his voice devoid of any emotion beyond simple resignation. ''There is a point where you just have to accept it. What Mark has to do over there is much worse and much more of a sacrifice than whatever I have to give up here.''

Two years into the war, many Americans have become numb to the conflict in Iraq. Though the war is a nightly news event, it is far away and is beyond any individual's control. But in this small Vermont town, the war could not be more personal.

Town meetings now take place without Selectman Brian Westcom, who also is the road commissioner. Chris Beaudry, who works for the state highway department, was not around to clear the roads during an especially snowy winter. Firefighter Shawn Blake is gone along with LaRose, the service station owner who also is the volunteer fire chief.

Dennis Sheridan will not be coaching soccer at the junior high his son Tyler attends, and the school does not know who will replace him. Jimmy Gleason, a school bus driver who also maintained the fleet, is absent. The hunter safety class held twice a year by Eric Chates—who also works as the mechanic for the Enosburg Armory—has been canceled.

Each day brings new evidence of the men's absence: Wives attend social functions alone. Children send sports scores by e-mail to fathers who never missed a game until now. Elderly parents arrange rides to doctors' appointments because their sons are not there to drive them.

Businesses are stretched thin. Matt Tracy says his workload at LaRose Texaco has tripled. Tammie Randall, hired strictly to pump gas, keeps the books, handles the payroll and washes the service vehicles.

Five of the 98 employees at Blue Seal Feeds are gone. An electric candle glows in their honor at the main entrance to the grain and animal feed company, and five enormous yellow ribbons hang from a six-story silo.

''Everyone is working extra hard, and we have gone to a temp agency to try to fill the vacancies,'' said plant manager Paul Adamczak. ''It affects us because we have lost people with years of experience. You can't replace that. We have lost skill, not just employees.''

Adamczak's son, Mike, 33, was among the plant workers deployed.

Like the town, the father remains stoic. ''We're Vermonters,'' Adamczak said. ''We're not the great vocal communicators. This is something you think about, something you feel every day—but something you don't say anything about.''

Quietly, neighbors pitch in to help the families of those who have left. Donna Magnant, a first-grade teacher's aide whose husband, Raymond, and son Jon were deployed, said the snow on her driveway and walkway seemed to magically disappear all winter, as friends dropped by to shovel and plow.

The Magnants were engaged to be married when Raymond went to Vietnam with the Army almost 40 years ago, right out of high school. Both have lived in Enosburg Falls their entire lives.

''Neither one of us, I am sure, thought we would have to face something like this again,'' said Magnant, 58.

All 63 assigned members of Bravo Company are in Iraq. Of the 25 support soldiers attached to the unit, most are training at Camp Shelby, Miss., and will head to the Middle East soon; a handful found they had medical conditions that prevented them from serving overseas. The unit is scheduled to be gone for 18 months. Though women have belonged to the unit in the past, Bravo Company is all male at this time.

Bravo Company joined about 1,400 other members of the Vermont Guard who had been called up in recent months, nearly half the state's roster—making Vermont second only to Hawaii in the per capita call-up of guardsmen. The Hawaiian units, however, include people from other states. The Vermont guardsmen come from their home state.

The average age of the men deployed from Bravo Company is 40, but some are old enough to have grandchildren. At least a third have served in the Guard for 20 years or more.

Answering the call of their country is something people in Enosburg Falls do, not something they question. If there is opposition to the war, people keep it to themselves, deferring to the prevailing sentiment of patriotism.

''Most people around here would go if they were asked,'' said Steve Tracy, who works at Blue Seal Feeds. ''Basically, it is how we were brought up.''

Tracy, 55—no relation to Matt Tracy—has five family members in the Guard: two sons, a nephew, a son-in-law and a brother-in-law.

''It has just become our community's price for the way we live,'' said Adamczak, his boss. ''If you look at it any other way, you are kidding yourself. Nobody is going to protect our lifestyle if we don't do it. This is a necessary, continuing commitment.''

As teller Jeannie West cashes paychecks and processes mortgage payments at Merchants Bank on Main Street, she glances at a snapshot thumbtacked to her work station. It shows four men in camouflage—all family members who have been called up. The last to be summoned was her son Joshua, 22, who left college in nearby Burlington when he was sent to Iraq in January.

West, 49, considers it an honor when customers ask about her son, and tell her they are proud that a boy from Enosburg Falls is representing the United States in Iraq.

''I could not imagine living somewhere where people did not feel like this,'' she said.

Still, West said: ''The town seems sadder because everybody talks about the guys who are gone. Everyone here went to school with somebody in the Guard. Everybody knows someone. Everyone is connected, somehow, to someone who is over there.''

As their fathers and grandfathers did, many young people here enlist in the military straight out of high school. When they return home, they often join the Guard—signing up for extra income, and for an opportunity to continue to serve.

Edward Grossman, principal of Enosburg Falls High School, said support for the military effort was so strong that when he surveyed his 375 students about starting an ROTC program, half said they wanted one. The program will begin in the fall.

When Bravo Company was deployed from St. Albans in December, the students pressed so hard to see the ceremony that Grossman arranged for a live broadcast in the school auditorium. As cameras panned on the unit, Grossman, 55, heard squeals of recognition: ''There's my cousin!'' ''There's my brother!'' ''There's my dad!''

Enosburg Falls nestles in low hills in northwestern Vermont, 10 miles from the Canadian border. Most of the town was built in the 19th century, starting when the first dairy farm was settled in 1806. In a quarter-mile commercial district, Radio Shack and the Family Dollar store stand out as franchises among locally owned enterprises like Leon's Kitchen.

There is almost 100% employment. Three-quarters of the population graduates from high school, going on to earn an average annual income of $32,000. They are laborers at the feed company and a pulp mill. They drive trucks. They are mechanics, cashiers and office workers. Many work on dairy farms. Some have jobs at an IBM plant 45 minutes away.

Enosburg Falls is surrounded by villages, bringing the population of the region residents refer to as Enosburg to about 2,500.

The area's uncommon stability has helped it withstand the loss of the guardsmen. But there are signs everywhere that the men are not forgotten.

Yellow ribbons cling to door knockers, lampposts and bay windows. Nine houses on Duffy Hill, a 1½-mile road, are draped with blue-star banners, indicating a soldier on active duty. A nearby trailer boasts a sign: ''Gone to Iraq, Be Back in 18 Months.''

Jars filled with pennies, nickels and dimes sit on office counters. The coins pay for postage to send goodie boxes to the guardsmen. Cars and pickups sport magnets honoring Bravo Company. A busy local restaurant, the Abbey, offers 50% discounts to Guard families.

Every other Saturday, Lise Gates, 50, turns her arcade and bowling alley over to children of the guardsmen so their mothers can have a break. Gates, who has no relatives in Bravo Company, e-mails photographs of the kids at play to their dads.

They thank her and she wonders why.

''Why thank me, when they're the ones putting their lives on the line so we can be safe?'' Gates said. ''I think a majority of them wanted to go because they felt if they didn't, a war was going to happen right here. A lot of us here feel that way.''

The elementary school started its own support group for Guard children.

An English teacher at Enosburg Falls High assigned her students to write an essay comparing a recent graduate—who has served twice in Iraq—to Beowulf, a great Scandinavian warrior from the 6th century. The graduate, Ben Pathode, has two brothers at the school.

School secretary Debbie Shover's 22-year-old nephew is in Iraq. Shover, 50, said that since the guardsmen shipped out townspeople thought in terms of days, not months or years.

Enosburg Falls, she said, has unofficially adopted a new way of telling time. ''Now, today, another day we can mark off. And then, when they come home. Nothing in between.''

When a fire broke out on Main Street one cold night in February, the guardsmen's absence seemed more glaring than usual. The blaze demolished an entire block of eight apartments and five businesses—among them, a furniture company.

Firefighters converged from as far as Quebec. But LaRose, the volunteer fire captain, was missing. LaRose, 49, Bravo Company's command sergeant major, is known for his ability to take charge in an emergency. He joined the Guard almost 30 years ago.

''We put the fire out,'' said Town Administrator Harold Foote. ''But we really missed him.''

Foote, 49, said he was worried about what would happen when the spring floods started. In the past, the Guard unit stacked sandbags to halt onrushing waters. The June Dairy Festival—the town's biggest event of the year—also concerns him, because guardsmen traditionally manage the crowds and traffic.

''It sounds like small things, but it really confuses a community when you are used to relying on a group of guys like this,'' Foote said. ''And we haven't gone through a whole year's cycle yet.''

LaRose's gas station, with its big red Texaco star sign, is a local landmark—the only service station for miles where customers can still get their gas pumped and their windshields cleaned without getting out of their cars.

''Mark kept it like that, religiously,'' Matt Tracy said. He has vowed to maintain his boss' high service standards: ''It is our responsibility to keep it like that until he gets back.''

Tracy said he and his boss used to confer on minor problems and emergencies alike. Now he has no one to turn to. ''Mark was a leader,'' he said, ''not just with the National Guard or the fire department. He was my leader too.''

As he tries to make the right decisions, Tracy asks himself: What would Mark do?

Until now, Tracy said, he never realized how one man's absence could make such a difference.

S. 1888

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Military Family Support Act of 2005''.

SEC. 2. PROGRAMS FOR USE OF LEAVE BY CAREGIVERS FOR FAMILY MEMBERS OF INDIVIDUALS PERFORMING CERTAIN MILITARY SERVICE.

(a) FEDERAL EMPLOYEES PROGRAM.—

(1) DEFINITIONS.—In this subsection:

(A) CAREGIVER.—The term ''caregiver'' means an individual who—

(i) is an employee;

(ii) is at least 21 years of age; and

(iii) is capable of self care and care of children or other dependent family members of a qualified member of the Armed Forces.

(B) COVERED PERIOD OF SERVICE.—The term ''covered period of service'' means any period of service performed by an employee as a caregiver while the individual who designated the caregiver under paragraph (3) remains a qualified member of the Armed Forces.

(C) EMPLOYEE.—The term ''employee'' has the meaning given under section 6331 of title 5, United States Code.

(D) FAMILY MEMBER.—The term ''family member'' includes—

(i) individuals for whom the qualified member of the Armed Forces provides medical, financial, and logistical support (such as housing, food, clothing, or transportation); and

(ii) children under the age of 19 years, elderly adults, persons with disabilities, and other persons who are unable to care for themselves in the absence of the qualified member of the Armed Forces.

(E) QUALIFIED MEMBER OF THE ARMED FORCES.—The term ''qualified member of the Armed Forces'' means—

(i) a member of a reserve component of the Armed Forces as described under section 10101 of title 10, United States Code, who has received notice to report to, or is serving on, active duty in the Armed Forces in support of a contingency operation as defined under section 101(a)(13) of title 10, United States Code; or

(ii) a member of the Armed Forces on active duty who is eligible for hostile fire or imminent danger special pay under section 310 of title 37, United States Code.

(2) ESTABLISHMENT OF PROGRAM.—The Office of Personnel Management shall establish a program to authorize a caregiver to—

(A) use any sick leave of that caregiver during a covered period of service in the same manner and to the same extent as annual leave is used; and

(B) use any leave available to that caregiver under subchapter III or IV of chapter 63 of title 5, United States Code, during a covered period of service as though that covered period of service is a medical emergency.

(3) DESIGNATION OF CAREGIVER.—

(A) IN GENERAL.—A qualified member of the Armed Forces shall submit a written designation of the individual who is the caregiver for any family member of that member of the Armed Forces during a covered period of service to the employing agency and the Office of Personnel Management.

(B) DESIGNATION OF SPOUSE.—Notwithstanding paragraph (1)(A)(ii), an individual less than 21 years of age may be designated as a caregiver if that individual is the spouse of the qualified member of the Armed Forces making the designation.

(4) USE OF CAREGIVER LEAVE.—Leave may only be used under this subsection for purposes directly relating to, or resulting from, the designation of an employee as a caregiver.

(5) REGULATIONS.—Not later than 120 days after the date of enactment of this Act, the Office of Personnel Management shall prescribe regulations to carry out this subsection.

(6) TERMINATION.—The program under this subsection shall terminate on December 31, 2007.

(b) VOLUNTARY PRIVATE SECTOR LEAVE PROGRAM.—

(1) DEFINITIONS.—

(A) CAREGIVER.—The term ''caregiver'' means an individual who—

(i) is an employee;

(ii) is at least 21 years of age; and

(iii) is capable of self care and care of children or other dependent family members of a qualified member of the Armed Forces.

(B) COVERED PERIOD OF SERVICE.—The term ''covered period of service'' means any period of service performed by an employee as a caregiver while the individual who designated the caregiver under paragraph (4) remains a qualified member of the Armed Forces.

(C) EMPLOYEE.—The term ''employee'' means an employee of a business entity participating in the program under this subsection.

(D) FAMILY MEMBER.—The term ''family member'' includes—

(i) individuals for whom the qualified member of the Armed Forces provides medical, financial, and logistical support (such as housing, food, clothing, or transportation); and

(ii) children under the age of 19 years, elderly adults, persons with disabilities, and other persons who are unable to care for themselves in the absence of the qualified member of the Armed Forces.

(E) QUALIFIED MEMBER OF THE ARMED FORCES.—The term ''qualified member of the Armed Forces'' means—

(i) a member of a reserve component of the Armed Forces as described under section 10101 of title 10, United States Code, who has received notice to report to, or is serving on, active duty in the Armed Forces in support of a contingency operation as defined under section 101(a)(13) of title 10, United States Code; or

(ii) a member of the Armed Forces on active duty who is eligible for hostile fire or imminent danger special pay under section 310 of title 37, United States Code.

(2) ESTABLISHMENT OF PROGRAM.—

(A) IN GENERAL.—The Secretary of Labor shall establish a program to authorize employees of business entities described under paragraph (3) to use sick leave, or any other leave available to an employee, during a covered period of service in the same manner and to the same extent as annual leave (or its equivalent) is used.

(B) EXCEPTION.—Subparagraph (A) shall not apply to leave made available under the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.).

(3) VOLUNTARY BUSINESS PARTICIPATION.—The Secretary of Labor shall solicit business entities to voluntarily participate in the program under this subsection.

(4) DESIGNATION OF CAREGIVER.—

(A) IN GENERAL.—A qualified member of the Armed Forces shall submit a written designation of the individual who is the caregiver for any family member of that member of the Armed Forces during a covered period of service to the employing business entity.

(B) DESIGNATION OF SPOUSE.—Notwithstanding paragraph (1)(A)(ii), an individual less than 21 years of age may be designated as a caregiver if that individual is the spouse of the qualified member of the Armed Forces making the designation.

(5) USE OF CAREGIVER LEAVE.—Leave may only be used under this subsection for purposes directly relating to, or resulting from, the designation of an employee as a caregiver.

(6) REGULATIONS.—Not later than 120 days after the date of enactment of this Act, the Secretary of Labor shall prescribe regulations to carry out this subsection.

(7) TERMINATION.—The program under this subsection shall terminate on December 31, 2007.

(c) GAO REPORT.—Not later than June 30, 2007, the Government Accountability Office shall submit a report to Congress on the programs under subsections (a) and (b) that includes—

(1) an evaluation of the success of each program; and

(2) recommendations for the continuance or termination of each program.

Mr. FEINGOLD. Mr. President, today I am pleased to join with the Senator from Vermont, Mr. JEFFORDS, in introducing legislation that would bring a small measure of relief to the families of our men and women in uniform as they seek to maintain a sense of normalcy here at home while their loved ones are deployed in service to our country. Our ongoing large-scale deployments in Iraq continue to demand so much from our men and women in uniform and their families. Passing this measure is the least we can do.

As part of the pre-deployment process, military personnel with dependent children or other dependent family members, such as elderly parents who require care, designate a caregiver for their dependents. This person will act in the deployed personnel's place to provide care for these family members during the period of deployment. The caregiver could be a spouse, parent, sibling, or other responsible adult who is capable of caring for, and willing to care for, the dependents in question.

The bill that we are introducing today, the Military Family Support Act, would create two programs to provide additional leave options for persons who have been designated as caregivers. The first program would require the Office of Personnel Management, OPM, to create a program under which Federal employees who are designated as caregivers could use accrued annual or sick leave, leave bank benefits, and other leave available to them under Title 5 for purposes directly relating to or resulting from their designation as a caregiver.

This bill would also require the Secretary of Labor to establish a voluntary program under which private sector companies would create similar programs for their employees and to solicit participation from private sector companies. I commend the many employers around the country for their understanding and support when an employee or a family member of an employee is called to active duty, and I hope that companies in Wisconsin and around the country will participate in this voluntary program.

In addition, our bill would require the Government Accountability Office to report to Congress with an evaluation of both the OPM program and the voluntary Department of Labor program. It is my hope that this evaluation will demonstrate the utility of such a leave program for designated caregivers and that these pilot programs could then be expanded to the designated caregivers of additional deployed military personnel.

This legislation builds on a measure that I introduced earlier this year, S. 798, the Military Families Leave Act. This bill would provide a similar benefit to military families by allowing eligible employees whose spouses, parents, sons, or daughters are military personnel who are serving on or called to active duty in support of a contingency operation to use their Family and Medical Leave Act, FMLA, benefits for issues directly relating to or resulting from that deployment. These instances could include preparation for deployment or additional responsibilities that family members take on as a result of a loved one's deployment, such as child care. I also introduced this bill during the 108th Congress.

Let me be clear, that the legislation we are introducing today does not amend the FMLA in any way. In fact, FMLA benefits are specifically exempted from the types of leave that can be used by designated caregivers for purposes directly related to or resulting from their caregiver responsibilities. While I believe that the FMLA could serve as the basis for providing additional leave opportunities for designated caregivers, opposition in some quarters to the original FMLA makes this a difficult proposition. I am proud to have been a cosponsor of this landmark law, and I believe that the FMLA continues to provide much-needed assistance to millions of workers around the country as they seek to care for their own serious health condition or that of a family member or as they welcome the birth or adoption of a child. I will continue to support this law and efforts to ensure that the vital benefits that it provides are not eroded.

I thank the Senator from Vermont, Mr. JEFFORDS, for his work on this important measure, and I urge all of our colleagues to support it.

By Mr. HAGEL:

S. 1889. A bill to establish the Comprehensive Entitlement Reform Commission; to the Committee on Finance.

Mr. HAGEL. Mr. President, today I introduce legislation to create a bi-partisan Entitlement Reform Commission. The Commission will review America's three major entitlement programs, Social Security, Medicare and Medicaid, and make comprehensive recommendations to Congress and the President that would sustain the solvency and stability of these three programs for future generations. Representative JOHN TANNER, D–TN, has joined me by introducing this legislation in the House of Representatives.

Social Security, Medicare and Medicaid have played a vital role for millions of Americans to cope with the financial burdens of retirement and health care costs. However, over the next 75 years these three programs represent a 42 trillion dollar unfunded commitment are on a trajectory that cannot be sustained. The Social Security Trust Fund faces a four trillion dollar unfunded commitment and will pay out more money than it takes in beginning in 2017; it will be exhausted in 2041. The Medicare Part A Trust Fund, hospital insurance, faces an 8.6 trillion dollar unfunded commitment and will be exhausted even sooner in 2020. The remainder of the 42 trillion dollar unfunded commitment includes 12.4 trillion dollars for Medicare Part B, supplementary medical insurance; 8.7 trillion dollars for Medicare Part D, prescription drugs; and 8.4 trillion dollars for Medicaid.

We have no idea where we are going to get the money to pay for these commitments. We must deal with these challenges today while we still have options so that our children will not be severely burdened with paying for huge entitlement commitments when they are competing in a far more competitive world than exists today. To leave future generations in this predicament would be an irresponsible and colossal failure of our generation.

Eight members will sit on the Commission established in my legislation. The House Speaker, House Minority Leader, Senate Majority Leader and Senate Minority Leader will each appoint two members. Members cannot be elected officials. The Commission will select two Co-Chairmen from among its members and hire an Executive Director.

The Commission must submit its final report to the President and Congress one year after the selection of the two Co-Chairmen of the Commission and the Executive Director. Congress will hold Committee hearings to review the Commission's recommendations. The bill authorizes 1.5 million dollars to carry out the Commission's tasks.

In March 2005, Federal Reserve Chairman Alan Greenspan urged Congress to act on modernizing entitlement programs, ''sooner rather than later.'' He warned that unless we act now to meet the huge unfunded commitments of our entitlement programs, there will be significant economic consequences for our nation. Dealing with this problem now means facing less dramatic and difficult choices down the road. The earlier we confront this reality, the more options we will have to pursue a wise and sustainable course of action.

I am 59 years old. I am at the front end of the ''baby boom'' generation. My daughter is 15 years old and my son is 13 years old. I don't want to fail their generation. That means addressing these entitlement programs now while we have time to do it in a responsible way. This is a defining debate for today's leaders. Doing nothing is irresponsible and cowardly. It is in every American's interest to deal with this challenge now. We have it in us to do what needs to be done. I invite my colleagues to cosponsor this legislation.

By Mr. BAUCUS (for himself, Mr. GRASSLEY, and Mr. MCCAIN):

S. 1890. A bill to amend the Internal Revenue Code of 1986 to deny a deduction for certain fines, penalties, and other amounts; to the Committee on Finance.

Mr. BAUCUS. Mr. President, today my good friends Senators GRASSLEY and MCCAIN and I are introducing the ''Government Settlement Transparency Act of 2005'', a bill that will put a stop to tax deductions for fines and penalties paid by companies to government agencies in connection with civil settlements. Over the past several years, we have become increasingly concerned about the approval of various settlements that allow penalty payments made to the government in settlement of a violation or potential violation of the law to be tax deductible. Our concerns were heightened this week upon the release of a Government Accountability Office Report that confirmed many companies deduct these settlements notwithstanding the tax code's prohibition against deducting fines and penalties. This abuse shifts the tax burden from the wrongdoer onto the backs of the American people. This is unacceptable.

Many government agencies enter into these settlement agreements after investigating companies for violations of the law. Every year thousands of violations are resolved with settlements totaling tens of billions of dollars paid to the Federal Government. Civil settlements serve to punish past wrongdoing and to deter future wrongdoing without protracted court proceedings. For example, in the past several years settlements of various SEC investigations into violations or potential violations of the securities laws have been front and center in the news. Through civil investigations, Federal and State regulators are working hard to hold these firms responsible for their actions. With these efforts to achieve greater accountability in the business community and ensure the integrity of our financial markets, it is important that the rules governing the appropriate tax treatment of settlements be clear and adhered to by taxpayers.

Section 162(f) of the Internal Revenue Code provides that no deduction is allowed as a trade or business expense under section 162(a) for the payment of a fine or penalty to a government for violation of any law. The enactment of section 162(f) in 1969 codified existing case law that denied the deductibility of fines and penalties as ordinary and necessary business expenses on the grounds that ''allowance of the deduction would frustrate sharply defined national or state policies proscribing the particular types of conduct evidenced by some governmental declaration thereof.'' Treasury regulations provide that a fine or penalty includes an amount paid in settlement of the taxpayer's actual or potential liability for a fine or penalty.

The legislation introduced today modifies the rules regarding the determination of whether payments are nondeductible payments of fines or penalties under section 162(f). In particular, the bill generally provides that amounts paid or incurred whether by suit, agreement, or otherwise, to, or at the direction of, a government in relation to the violation of any law or the investigation or inquiry in the potential violation of any law are nondeductible. The bill applies to deny a deduction for any such payments, including those where there is no admission of guilt or liability and those made for the purpose of avoiding further investigation or litigation.

An exception applies to payments that the taxpayer establishes are either restitution, including remediation of property, or amounts required to come into compliance with any law that was violated, and that are so identified in the settlement agreement. It is intended that a payment will be treated as restitution only if the payment is required to be paid to the specific persons, or in relation to the specific property, actually harmed by the conduct of the taxpayer that resulted in the payment. Restitution does not include reimbursement of government investigative or litigation costs, or payments to whistleblowers. It is intended that a payment will be treated as an amount required to come into compliance only if it directly corrects a violation with respect to a particular requirement of law that was under investigation. Amounts paid to educate consumers or customers about the risks of doing business with the taxpayer or about the field in which the taxpayer generally does business, and which are not specifically required under the law, are not deductible if required under a settlement agreement.

To ensure that companies do not take unallowable tax deductions for settlement payments, the bill requires government agencies to report to the IRS and to the taxpayer within thirty days of the settlement the amount of each settlement agreement, and to identify whether the payment is for fines, restitution, remediation or compliance, where the aggregate amount of the settlement is at least six hundred dollars, the Secretary of the Treasury will have the authority to adjust the amount and deadline for filing. Further, the IRS is encouraged to require taxpayers to separately identify such settlements on their tax returns.

The bill would be effective for amounts paid or incurred on or after the date of enactment unless the amounts were under binding order or agreement before such date.

I ask unanimous consent that the Joint Committee on Taxation Technical Description and the text of the bill be printed in the RECORD.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

DENIAL OF DEDUCTION FOR CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS

PRESENT LAW

Under present law, no deduction is allowed as a trade or business expense under section 162(a) for the payment of a fine or similar penalty to a government for the violation of any law (sec. 162(f)). The enactment of section 162(f) in 1969 codified existing case law that denied the deductibility of fines as ordinary and necessary business expenses on the grounds that ''allowance of the deduction would frustrate sharply defined national or State policies proscribing the particular types of conduct evidenced by some governmental declaration thereof.''

Treasury regulation section 1.162–21(b)(1) provides that a fine or similar penalty includes an amount: (1) Paid pursuant to conviction or a plea of guilty or nolo contendere for a crime (felony or misdemeanor) in a criminal proceeding; (2) paid as a civil penalty imposed by Federal, State, or local law, including additions to tax and additional amounts and assessable penalties imposed by chapter 68 of the Code; (3) paid in settlement of the taxpayer's actual or potential liability for a fine or penalty (civil or criminal); or (4) forfeited as collateral posted in connection with a proceeding which could result in imposition of such a fine or penalty. Treasury regulation section 1.162–21(b)(2) provides, among other things, that compensatory damages (including damages under section 4A of the Clayton Act (15 U.S.C. 15a), as amended) paid to a government do not constitute a fine or penalty.

REASONS FOR CHANEE

There is a lack of clarity and consistency under present law regarding when taxpayers may deduct payments made in settlement of government investigations of potential wrongdoing, as well as in situations where there has been a final determination of wrongdoing. If a taxpayer deducts payments made in settlement of an investigation of potential wrongdoing or as a result of a finding of wrongdoing, the publicly announced amount of the settlement payment does not reflect the true after-tax penalty on the taxpayer. Allowing a deduction for such payments in effect shifts a portion of the penalty to the Federal government and to the public.

DESCRIPTION OF PROPOSAL

The bill modifies the rules regarding the determination whether payments are nondeductible payments of fines or penalties under section 162(f). In particular, the bill generally provides that amounts paid or incurred (whether by suit, agreement, or otherwise) to, or at the direction of, a government in relation to the violation of any law or the investigation or inquiry into the potential violation of any law are nondeductible under any provision of the income tax provisions. The bill applies to deny a deduction for any such payments, including those where there is no admission of guilt or liability and those made for the purpose of avoiding further investigation or litigation. An exception applies to payments that the taxpayer establishes are either restitution (including remediation of property), or amounts required to come into compliance with any law that was violated or involved in the investigation or inquiry, and that are identified in the court order or settlement as restitution, remediation, or required to come into compliance. The IRS remains free to challenge the characterization of an amount so identified; however, no deduction is allowed unless the identification is made.

An exception also applies to any amount paid or incurred as taxes due.

The bill is intended to apply only where a government (or other entity treated in a

manner similar to a government under the amendment) is a complainant or investigator with respect to the violation or potential violation of any law.

It is intended that a payment will be treated as restitution (including remediation of property) only if substantially all of the payment is required to be paid to the specific persons, or in relation to the specific property, actually harmed by the conduct of the taxpayer that resulted in the payment. Thus, a payment to or with respect to a class substantially broader than the specific persons or property that were actually harmed (e.g., to a class including similarly situated persons or property) does not qualify as restitution or included remediation of property. Restitution and included remediation of property is limited to the amount that bears a substantial quantitative relationship to the harm caused by the past conduct or actions of the taxpayer that resulted in the payment in question. If the party harmed is a government or other entity, then restitution and included remediation of property includes payment to such harmed government or entity, provided the payment bears a substantial quantitative relationship to the harm. However, restitution or included remediation of property does not include reimbursement of government investigative or litigation costs, or payments to whistleblowers.

It is intended that a payment will be treated as an amount required to come into compliance only if it directly corrects a violation with respect to a particular requirement of law that was under investigation. For example, if the law requires a particular emission standard to be met or particular machinery to be used, amounts required to be paid under a settlement agreement to meet the required standard or install the machinery are deductible to the extent otherwise allowed. Similarly, if the law requires certain practices and procedures to be followed and a settlement agreement requires the taxpayer to pay to establish such practices or procedures, such amounts would be deductible. However, amounts paid for other purposes not directly correcting a violation of law are not deductible. For example, amounts paid to bring other machinery that is already in compliance up to a standard higher than required by the law, or to create other benefits (such as a park or other action not previously required by law), are not deductible if required under a settlement agreement. Similarly, amounts paid to educate consumers or customers about the risks of doing business with the taxpayer or about the field in which the taxpayer does business generally, which education efforts are not specifically required under the law, are not deductible if required under a settlement agreement.

The bill requires government agencies to report to the IRS and to the taxpayer the amount of each settlement agreement or order entered where the aggregate amount required to be paid or incurred to or at the direction of the government under such settlement agreements and orders with respect to the violation, investigation, or inquiry is least $600 (or such other amount as may be specified by the Secretary of the Treasury as necessary to ensure the efficient administration of the Internal Revenue laws). The reports must be made within 30 days of entering the settlement agreement, or such other time as may be required by Secretary. The report must separately identify any amounts that are restitution or remediation of property, or correction of noncompliance.

The IRS is encouraged in addition to require taxpayers to identify separately on their tax returns the amounts of any such settlements with respect to which reporting is required under the bill, including separate identification of the nondeductible amount and of any amount deductible as restitution, remediation, or required to correct noncompliance.

Amounts paid or incurred (whether by suit, agreement, or otherwise) to, or at the direction of, any self-regulatory entity that regulates a financial market or other market that is a qualified board or exchange under section 1256(g)(7), and that is authorized to impose sanctions (e.g., the National Association of Securities Dealers) are likewise subject to the provision if paid in relation to a violation, or investigation or inquiry into a potential violation, of any law (or any rule or other requirement of such entity). To the extent provided in regulations, amounts paid or incurred to, or at the direction of, any other nongovernmental entity that exercises self-regulatory powers as part of performing an essential governmental function are similarly subject to the provision. The exception for payments that the taxpayer establishes are paid or incurred for restitution, remediation of property, or coming into compliance and that are identified as such in the order or settlement agreement likewise applies in these cases. The requirement of reporting to the IRS and the taxpayer also applies in these cases.

No inference is intended as to the treatment of payments as nondeductible fines or penalties under present law. In particular, the bill is not intended to limit the scope of present-law section 162(f) or the regulations thereunder.

EFFECTIVE DATE

The bill is effective for amounts paid or incurred on or after the date of enactment; however the bill does not apply to amounts paid or incurred under any binding order or agreement entered into before such date. Any order or agreement requiring court approval is not a binding order or agreement for this purpose unless such approval was obtained before the date of enactment.

S. 1890

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 Settlement Transparency Act of 2005''.

SEC. 2. DENIAL OF DEDUCTION FOR CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.

(a) IN GENERAL.—Subsection (f) of section 162 of the Internal Revenue Code of 1986 (relating to trade or business expenses) is amended to read as follows:

''(f) FINES, PENALTIES, AND OTHER AMOUNTS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), no deduction otherwise allowable shall be allowed under this chapter for any amount paid or incurred (whether by suit, agreement, or otherwise) to, or at the direction of, a government or entity described in paragraph (4) in relation to the violation of any law or the investigation or inquiry by such government or entity into the potential violation of any law.

''(2) EXCEPTION FOR AMOUNTS CONSTITUTING RESTITUTION OR PAID TO COME INTO COMPLIANCE WITH LAW.—Paragraph (1) shall not apply to any amount which—

''(A) the taxpayer establishes—

''(i) constitutes restitution (including remediation of property) for damage or harm caused by or which may be caused by the violation of any law or the potential violation of any law, or

''(ii) is paid to come into compliance with any law which was violated or involved in the investigation or inquiry, and

''(B) is identified as restitution or as an amount paid to come into compliance with the law, as the case may be, in the court order or settlement agreement.

Identification pursuant to subparagraph (B) alone shall not satisfy the requirement under subparagraph (A). This paragraph shall not apply to any amount paid or incurred as reimbursement to the government or entity for the costs of any investigation or litigation.

''(3) EXCEPTION FOR AMOUNTS PAID OR INCURRED AS THE RESULT OF CERTAIN COURT ORDERS.—Paragraph (1) shall not apply to any amount paid or incurred by order of a court in a suit in which no government or entity described in paragraph (4) is a party.

''(4) CERTAIN NONGOVERNMENTAL REGULATORY ENTITIES.—An entity is described in this paragraph if it is—

''(A) a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) in connection with a qualified board or exchange (as defined in section 1256(g)(7)), or

''(B) to the extent provided in regulations, a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) as part of performing an essential governmental function.

''(5) EXCEPTION FOR TAXES DUE.—Paragraph (1) shall not apply to any amount paid or incurred as taxes due.''.

(b) REPORTING OF DEDUCTIBLE AMOUNTS.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1986 is amended by inserting after section 6050T the following new section:

''SEC. 6050U. INFORMATION WITH RESPECT TO CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.

''(a) REQUIREMENT OF REPORTING.—

''(1) IN GENERAL.—The appropriate official of any government or entity which is described in section 162(f)(4) which is involved in a suit or agreement described in paragraph (2) shall make a return in such form as determined by the Secretary setting forth—

''(A) the amount required to be paid as a result of the suit or agreement to which paragraph (1) of section 162(f) applies,

''(B) any amount required to be paid as a result of the suit or agreement which constitutes restitution or remediation of property, and

''(C) any amount required to be paid as a result of the suit or agreement for the purpose of coming into compliance with any law which was violated or involved in the investigation or inquiry.

''(2) SUIT OR AGREEMENT DESCRIBED.—

''(A) IN GENERAL.—A suit or agreement is described in this paragraph if—

''(i) it is—

''(I) a suit with respect to a violation of any law over which the government or entity has authority and with respect to which there has been a court order, or

''(II) an agreement which is entered into with respect to a violation of any law over which the government or entity has authority, or with respect to an investigation or inquiry by the government or entity into the potential violation of any law over which such government or entity has authority, and

''(ii) the aggregate amount involved in all court orders and agreements with respect to the violation, investigation, or inquiry is $600 or more.

''(B) ADJUSTMENT OF REPORTING THRESHOLD.—The Secretary may adjust the $600 amount in subparagraph (A)(ii) as necessary in order to ensure the efficient administration of the internal revenue laws.

''(3) TIME OF FILING.—The return required under this subsection shall be filed not later than—

''(A) 30 days after the date on which a court order is issued with respect to the suit or the date the agreement is entered into, as the case may be, or

''(B) the date specified Secretary.

''(b) STATEMENTS TO BE FURNISHED TO INDIVIDUALS INVOLVED IN THE SETTLEMENT.—Every person required to make a return under subsection (a) shall furnish to each person who is a party to the suit or agreement a written statement showing—

''(1) the name of the government or entity, and

''(2) the information supplied to the Secretary under subsection (a)(1).

The written statement required under the preceding sentence shall be furnished to the person at the same time the government or entity provides the Secretary with the information required under subsection (a).

''(c) APPROPRIATE OFFICIAL DEFINED.—For purposes of this section, the term 'appropriate official' means the officer or employee having control of the suit, investigation, or inquiry or the person appropriately designated for purposes of this section.''.

(2) CONFORMING AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 6050T the following new item:

''Sec. 6050U. Information with respect to certain fines, penalties, and other amounts.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred on or after the date of the enactment of this Act, except that such amendments shall not apply to amounts paid or incurred under any binding order or agreement entered into before such date. Such exception shall not apply to an order or agreement requiring court approval unless the approval was obtained before such date.

By Mr. MCCAIN (for himself and Mr. DORGAN):

S. 1892. A bill to amend Public Law 107–153 to modify a certain date; to the Committee on Indian Affairs.

Mr. MCCAIN. Mr. President, today I am introducing a measure with Senator DORGAN to amend P.L. 107–153, which deems that certain reports prepared for the Department of the Interior relating to Indian tribal trust accounts were received by the tribes no earlier than December 31, 1999. The intent of this law was to eliminate contentions that the tribes received notice of potential claims against the United States prior to that date for purposes of the statute of limitations. This amendment changes the date set forth in P.L. 107–153 to December 31, 2005, in order to facilitate discussions and negotiations between the Indian tribes and the United States regarding potential claims without pressure on the tribes to file lawsuits out of concern that the statute of limitations will run out on their claims. It is my understanding that this measure has support both among the Indian tribes and the administration.

By Mr. SANTORUM:

S. 1893. A bill to permit biomedical research corporations to engage in certain financings and other transactions without incurring limitations on net operating loss carryforwards and certain built-in losses, and for other purposes; to the Committee on Finance.

Mr. SANTORUM. Mr. President, today I rise to introduce the Biotechnology Future Investment Expansion Act of 2005.

Biotechnology has resulted in some of the most important innovations of our time. Substantive research in agriculture, bioengineering, and medicine have given Americans a better life. From the discovery of DNA to the creation of synthetic insulin, biotechnology has improved the standard of living and has saved many lives. It is important that we encourage continued research to further advances in the biotech field.

The biotech industry is one of the most research-intensive industries in the world. The industry spent $17.9 billion on research and development in 2003 alone. The overwhelming majority of biotech companies engaged in this research are not profitable in the early years of development. Such companies may accumulate net operating losses NOLs, without earning income, for a decade or more. Unfortunately, a provision of the tax code, (Section 382), operates to severely limit the utilization of NOLs by many such biotech companies. Often, these limitations cause NOLs to expire before they can be used by these companies.

This legislation will modify the application of Section 382 to the biotech industry, with the goal of increasing that important sector's ability to leverage capital into high-tech, high-risk cutting-edge research. Specifically, the legislation will ensure that neither new investment into biotech companies nor a business-driven merger of two biotech loss companies will trigger the section 382 NOL limitation. Neither of these changes runs counter to the longstanding tax policy behind Section 382 of preventing corporations, from NOL trafficking.

My home State of Pennsylvania is a national leader in biotechnology innovation, and the biosciences are a significant economic driver in Pennsylvania's economy. Pennsylvania's support of the industry has made it a policy leader for the biosciences. More than 125 biopharmaceutical companies and 2,000 bioscience-related companies make Pennsylvania their home. For example, Philadelphia's BioAdvance focuses on bioinformatics, bio-pharmaceuticals and medical devices, and clinical trials. The Pittsburgh Life Sciences Greenhouse focuses on drug discovery tools, tissue and organ research, medical devices, and therapeutic strategies for neuropsychiatric disorders. The Central Pennsylvania Life Sciences Greenhouse is pursuing drug design and delivery systems, biomedical devices, and bio-nanotechnology. These and many other companies in Pennsylvania are developing groundbreaking therapies, devices, diagnostics and vaccines for once untreatable diseases and debilitating conditions, providing hope for millions of patients.

Additionally, top-of-the-line bioscience research takes place in Pennsylvania's academic institutions. Pennsylvania researchers garnered $1.3 billion in funding through the I.— National Institutes of Health in 2003, making the Commonwealth fourth in the Nation. And the University of Pennsylvania and the University of Pittsburgh are in the top 10 nationally for NIH funding.

We must encourage continued research and the funding that supports it. Biotech companies are pursuing high-risk research projects to find cures for many deadly and debilitating diseases that afflict humanity. From cancer to AIDS, and from Alzheimer's Disease to Parkinson' Disease, the biotechnology industry will be in the center of finding cures to these life-ending illnesses. My legislation offers a little more support to an industry we depend upon. I encourage my colleagues to join me in supporting this legislation and 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. 1893

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 ''Biotechnology Future Investment Expansion Act of 2005''.

SEC. 2. RESTORING THE BENEFIT OF TAX INCENTIVES FOR BIOMEDICAL RESEARCH AND CLINICAL TRIALS.

(a) IN GENERAL.—Subsection (l) of section 382 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(9) CERTAIN FINANCING TRANSACTIONS OF BIOMEDICAL RESEARCH CORPORATIONS.—

''(A) GENERAL RULE.—In the case of a biomedical research corporation, any owner shift involving a 5-percent shareholder which occurs as the result of a qualified investment or qualified transaction during the testing period shall be treated for purposes of this section (other than this paragraph) as occurring before the testing period.

''(B) BIOMEDICAL RESEARCH CORPORATION.—For purposes of this paragraph, the term 'biomedical research corporation' means, with respect to any qualified investment, any domestic corporation subject to tax under this subchapter which is not in bankruptcy and which, as of the time of the closing on such investment—

''(i) holds the rights to a drug or biologic for which an investigational new drug application is in effect under section 505 of the Federal Food, Drug, and Cosmetic Act, and

''(ii) certifies that, as of the time of such closing, the drug or biologic is, or in the 3 month period before and after such closing has been, under study pursuant to an investigational use exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act.

''(C) QUALIFIED INVESTMENT.—For purposes of this paragraph, the term 'qualified investment' means any acquisition of stock by a shareholder (who after such acquisition is a less than 50 percent shareholder) in a biomedical research corporation if such stock is acquired at its original issue (directly or through an underwriter) solely in exchange for cash.

''(D) QUALIFIED TRANSACTION.—For purposes of this paragraph, the term 'qualified transaction' means any acquisition of stock in a biomedical research corporation if such stock is acquired as part of a merger or acquisition by another biomedical research corporation that is a loss corporation. If the

acquiring loss corporation is a member of a controlled group of corporations under section 1563(a), the group must be a loss group.

''(E) STOCK ISSUED IN EXCHANGE FOR CONVERTIBLE DEBT.—For purposes of this paragraph, stock issued by a biomedical research corporation in exchange for its convertible debt (or stock deemed under this section to be so issued) shall be treated as stock acquired by the debt holder at its original issue and solely in exchange for cash if the debt holder previously acquired the convertible debt at its original issue and solely in exchange for cash. In the case of an acquisition of stock in exchange for convertible debt, the requirements of this paragraph shall be applied separately as of the time of closing on the investment in convertible debt, and as of the time of actual conversion (or deemed conversion under this section) of the convertible debt for stock.

''(F) BIOMEDICAL RESEARCH CORPORATION MUST MEET 3-YEAR EXPENDITURE AND CONTINUITY OF BUSINESS TESTS WITH RESPECT TO ANY QUALIFIED INVESTMENT.—

''(i) IN GENERAL.—This paragraph shall not apply to a qualified investment or transaction in a biomedical research corporation unless such corporation meets the expenditure test for each year of the measuring period and the continuity of business test.

''(ii) MEASURING PERIOD.—For purposes of this subparagraph, the term 'measuring period' means, with respect to any qualified investment or transaction, the taxable year of the biomedical research corporation in which the closing on the investment occurs, and the 2 preceding taxable years.

''(iii) EXPENDITURE TEST.—A biomedical research corporation meets the expenditure test of this subparagraph for a taxable year if at least 35 percent of its expenditures for the taxable year (including, for purposes of this clause, payments in redemption of its stock) are expenditures described in section 41(b) or clinical and preclinical expenditures.

''(iv) CONTINUITY OF BUSINESS TEST.—A biomedical research corporation meets the continuity of business test if, at all times during the 2-year period following a qualified investment or transaction, such corporation continues the business enterprise of such corporation.

''(G) EFFECT OF CORPORATE REDEMPTIONS ON QUALIFIED INVESTMENTS.—Rules similar to the rules of section 1202(c)(3) shall apply to qualified investments under this paragraph except that 'stock acquired in a qualified investment' shall be substituted for 'qualified small business stock' each place it appears therein.

''(H) EFFECT OF OTHER TRANSACTIONS BETWEEN BIOMEDICAL RESEARCH CORPORATIONS AND INVESTORS MAKING QUALIFIED INVESTMENTS.—

''(i) IN GENERAL.—If, during the 2-year period beginning 1 year before any qualified investment, the biomedical research corporation engages in another transaction with a member of its qualified investment group and such biomedical research corporation receives any consideration other than cash in such transaction, there shall be a presumption that stock received in the otherwise qualified investment transaction was not received solely in exchange for cash.

''(ii) QUALIFIED INVESTMENT GROUP.—For purposes of this subparagraph, the term 'qualified investment group' means, with respect to any qualified investment, one or more persons who receive stock issued in exchange for the qualified investment, and any person related to such persons within the meaning of section 267(b) or section 707(b).

''(iii) REGULATIONS.—The Secretary shall promulgate regulations exempting from this subparagraph transactions which are customary in the bioscience research industry and are of minor value relative to the amount of the qualified investment.

''(I) REGULATIONS.—The Secretary may issue such regulations as may be appropriate to achieve the purposes of this paragraph, to prevent abuse, and to provide for treatment of biomedical research corporations under sections 383 and 384 that is consistent with the purposes of this paragraph.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of enactment of this Act.

By Mr. ENSIGN (for himself, Mr. INHOFE, and Mr. DEMINT):

S. 1895. A bill to return meaning to the fifth amendment by limiting the power of eminent domain; to the Committee on Finance.

Mr. ENSIGN. Mr. President, I rise today on behalf of every person in America who owns property and to speak on behalf of everyone working toward the American dream of homeownership. That dream is being threatened today, and that threat comes from our own government and court system. Since the birth of our Nation, property ownership has been a fundamental and guarded right. The Founding Fathers went to great lengths to protect citizens from the heavy and greedy hand of government. This is why the Bill of Rights includes the fifth amendment's ''takings clause.''

Unfortunately, 200 years of upholding property rights was not enough to protect some Americans from the excessive use of government power. In Kelo v. City of New London, the U.S. Supreme Court ruled 5 to 4 that economic development was a sufficient reason to take a person's property. In this case, the city of New London, CT wanted to tear down private homes and redevelop private property into an industrial complex. It is important to understand that the city did not want to tear down these homes because the neighborhood was blighted. The city did not want to redevelop the property because the homes were being used by drug dealers. The homeowners were middle-class families living in a middle-class neighborhood. So why would the city want to redevelop these properties? City officials believed this would create jobs and increase the city's tax revenue. When the homeowners refused to sell to the city, the city began condemnation proceedings. The homeowners sued the city and argued that this ''taking'' violated their fifth amendment rights.

The fifth amendment states that private property cannot be taken except for a ''public use'' and only then if the owners are justly compensated. The owners believed, as I do, that creating jobs and increasing tax revenue is not a public use. The Supreme Court, despite the plain meaning of the fifth amendment, ruled against the homeowners. As bad as that is, it gets worse for these homeowners. The city of New London is demanding that the homeowners, those who fought to protect their fifth amendment rights, must now pay back rent. For the Kelo family, that means $57,000 in rent owed to the city.

This cannot be what the Founding Fathers intended when they adopted the Bill of Rights. The Kelo decision has highlighted a serious problem with how government has taken more power at the expense of the people. The Supreme Court's decision favors big corporations and persons with political clout over homeowners and regular people.

Congress is partly to blame. Congress has created incentives for government to redevelop property in a never-ending quest for more and more tax dollars. New London, CT is the perfect example of these incentives. To Americans, the Kelo decision means that no matter how hard you work and no matter how hard you save, government can come in and take it all away from you. No person's home will be safe if Congress does not act to restore the fifth amendment. The property owners who lost their homes as a result of the Kelo decision paid their Federal taxes, paid their State taxes, and paid their local taxes. They played by the rules. Ironically, it was these taxes that made it possible for their government to steal their homes. As a result, Congress must step in to limit the use of Federal dollars.

Just as our country's Founders sought to protect private property by amending the Constitution, I feel Congress must act to protect those rights. That is why I am introducing the Private Property Rights Protection Act, legislation to protect and preserve the American dream. This bill will curb government power and return it where it belongs, to the people.

By Mr. CORZINE (for himself and Mr. DODD):

S. 1897. A bill to amend the Forest and Rangeland Renewable Resources Planning Act of 1974 and related laws to strengthen the protection of native biodiversity and ban clearcutting on Federal land, and to designate certain Federal land as Ancient forests, roadless areas, watershed protection areas, and special areas where logging and other intrusive activities are prohibited; to the Committee on Energy and Natural Resources.

Mr. CORZINE. Mr. President, today I am introducing the Act to Save America's Forests. The purpose of this legislation is to protect our national forests from needless clearcutting, safeguard our roadless areas, and preserve the last remaining stands of ancient forests in this country.

At one time there was approximately billions of acres of forest on the land that is now the United States. Sadly, less than 10 percent of the original unlogged forests of the United States remain, and in the lower 48 States only 1 percent is in a form large enough to support all the native plants and animals. The 1 percent left is under constant threat, so we must act as soon as possible to keep us from losing these precious forest lands forever.

Our national forests also are under attack from clearcutting. The process

of clearcutting, or removing huge groups of trees at once, devastates wildlife habitats, creates a blighted landscape, increases soil erosion, and degrades water quality. Over a quarter-million acres of our national forests were clearcut in the past decade alone. The process of clearcutting annihilates vibrant, ecologically diverse forests are usually replaced, if at all, with a single species tree farm. This is irresponsible forest management that ignores ecology and concentrates solely on flawed economics.

This bill utilizes a scientific approach to forest management. By banning all logging operations in roadless areas, ancient forests, and forests that have extraordinary biological, scenic, or recreational values, this bill seeks to protect our Nation's most precious and fragile ecosystems. In addition, this bill bans clearcutting in our national forests except in specific cases where complete removal of nonnative invasive tree species is ecologically necessary.

While the bill bans certain logging, it does not ban all logging in our national forests. Instead, it allows a method of logging called selection management, which cuts individual trees instead of the whole forest, leaving a healthy, biologically diverse forest ecosystem. This method reduces the devastation to the environment because it retains natural forest structure and function, focuses on long-term rather than short-term management, and allows new growth without completely destroying old growth. It is also less disturbing to people who enjoy the scenic beauty of our forests. Not only is selection management more environmentally friendly, but it also can be sustainable and even profitable, as demonstrated by a number of private forests around the country.

This legislation emphasizes biodiversity and sustainable management, allowing ecologically sound logging practices in some of our national forestland and fully protecting the rest. I am proud to reintroduce this legislation in the 109th Congress, which will be a major step in the protection of America's forests. 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. 1897

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 ''Act to Save America's Forests''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.

TITLE I—LAND MANAGEMENT

Sec. 101. Committee of scientists.
Sec. 102. Continuous forest inventory.
Sec. 103. Administration and management.
Sec. 104. Conforming amendments.

TITLE II—PROTECTION FOR ANCIENT FORESTS, ROADLESS AREAS, WATERSHED PROTECTION AREAS, AND SPECIAL AREAS

Sec. 201. Findings.
Sec. 202. Definitions.
Sec. 203. Designation of special areas.
Sec. 204. Restrictions on management activities in Ancient forests, roadless areas, watershed protection areas, and special areas.

TITLE III—EFFECTIVE DATE

Sec. 301. Effective date.
Sec. 302. Effect on existing contracts.
Sec. 303. Wilderness Act exclusion.

TITLE IV—GIANT SEQUOIA NATIONAL MONUMENT

Sec. 401. Findings.
Sec. 402. Definitions.
Sec. 403. Additions to Giant Sequoia National Monument.
Sec. 404. Transfer of administrative jurisdiction over the Giant Sequoia National Monument.
Sec. 405. Additions to the Sierra National Forest and Inyo National Forest.
Sec. 406. Authorization of appropriations.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) Federal agencies that permit clearcutting and other forms of even-age logging operations include the Forest Service, the United States Fish and Wildlife Service, and the Bureau of Land Management;

(2) clearcutting and other forms of even-age logging operations cause substantial alterations in native biodiversity by—

(A) emphasizing the production of a limited number of commercial species, and often only a single species, of trees on each site;

(B) manipulating the vegetation toward greater relative density of the commercial species;

(C) suppressing competing species; and

(D) requiring the planting, on numerous sites, of a commercial strain of the species that reduces the relative diversity of other genetic strains of the species that were traditionally located on the same sites;

(3) clearcutting and other forms of even-age logging operations—

(A) frequently lead to the death of immobile species and the very young of mobile species of wildlife; and

(B) deplete the habitat of deep-forest species of animals, including endangered species and threatened species;

(4)(A) clearcutting and other forms of even-age logging operations—

(i) expose the soil to direct sunlight and the impact of precipitation;

(ii) disrupt the soil surface;

(iii) compact organic layers; and

(iv) disrupt the run-off restraining capabilities of roots and low-lying vegetation, resulting in soil erosion, the leaching of nutrients, a reduction in the biological content of soil, and the impoverishment of soil; and

(B) all of the consequences described in subparagraph (A) have a long-range deleterious effect on all land resources, including timber production;

(5) clearcutting and other forms of even-age logging operations aggravate global climate change by—

(A) decreasing the capability of the soil to retain carbon; and

(B) during the critical periods of felling and site preparation, reducing the capacity of the biomass to process and to store carbon, with a resultant loss of stored carbon to the atmosphere;

(6) clearcutting and other forms of even-age logging operations render soil increasingly sensitive to acid deposits by causing a decline of soil wood and coarse woody debris;

(7) a decline of solid wood and coarse woody debris reduces the capacity of soil to retain water and nutrients, which in turn increases soil heat and impairs soil's ability to maintain protective carbon compounds on the soil surface;

(8) clearcutting and other forms of even-age logging operations result in—

(A) increased stream sedimentation and the silting of stream bottoms;

(B) a decline in water quality;

(C) the impairment of life cycles and spawning processes of aquatic life from benthic organisms to large fish; and

(D) as a result of the effects described in subparagraphs (A) through (C), a depletion of the sport and commercial fisheries of the United States;

(9) clearcutting and other forms of even-age management of Federal forests disrupt natural disturbance regimes that are critical to ecosystem function;

(10) clearcutting and other forms of even-age logging operations increase harmful edge effects, including—

(A) blowdowns;

(B) invasions by weed species; and

(C) heavier losses to predators and competitors;

(11) by reducing the number of deep, canopied, variegated, permanent forests, clearcutting and other forms of even-age logging operations—

(A) limit areas where the public can satisfy an expanding need for recreation; and

(B) decrease the recreational value of land;

(12) clearcutting and other forms of even-age logging operations replace forests described in paragraph (11) with a surplus of clearings that grow into relatively impenetrable thickets of saplings, and then into monoculture tree plantations;

(13) because of the harmful and, in many cases, irreversible, damage to forest species and forest ecosystems caused by logging of Ancient and roadless forests, clearcutting, and other forms of even-age management, it is important that these practices be halted based on the precautionary principle;

(14) human beings depend on native biological resources, including plants, animals, and micro-organisms—

(A) for food, medicine, shelter, and other important products; and

(B) as a source of intellectual and scientific knowledge, recreation, and aesthetic pleasure;

(15) alteration of native biodiversity has serious consequences for human welfare, as the United States irretrievably loses resources for research and agricultural, medicinal, and industrial development;

(16) alteration of biodiversity in Federal forests adversely affects the functions of ecosystems and critical ecosystem processes that—

(A) moderate climate;

(B) govern nutrient cycles and soil conservation and production;

(C) control pests and diseases; and

(D) degrade wastes and pollutants;

(17)(A) clearcutting and other forms of even-age management operations have significant deleterious effects on native biodiversity, by reducing habitat and food for cavity-nesting birds and insectivores such as the 3-toed woodpecker and hairy woodpecker and for neotropical migratory bird species; and

(B) the reduction in habitat and food supply could disrupt the lines of dependency among species and their food resources and thereby jeopardize critical ecosystem function, including limiting outbreaks of destructive insect populations; for example—

(i) the 3-toed woodpecker requires clumped snags in spruce-fir forests, and 99 percent of

its winter diet is composed of insects, primarily spruce beetles; and

(ii) a 3-toed woodpecker can consume as much as 26 percent of the brood of an endemic population of spruce bark beetle and reduce brood survival of the population by 70 to 79 percent;

(18) the harm of clearcutting and other forms of even-age logging operations on the natural resources of the United States and the quality of life of the people of the United States is substantial, severe, and avoidable;

(19) by substituting selection management, as required by this Act, for clearcutting and other forms of even-age logging operations, the Federal agencies involved with those logging operations would substantially reduce devastation to the environment and improve the quality of life of the people of the United States;

(20) selection management—

(A) retains natural forest structure and function;

(B) focuses on long-term rather than short-term management;

(C) works with, rather than against, the checks and balances inherent in natural processes; and

(D) permits the normal, natural processes in a forest to allow the forest to go through the natural stages of succession to develop a forest with old growth ecological functions;

(21) by protecting native biodiversity, as required by this Act, Federal agencies would maintain vital native ecosystems and improve the quality of life of the people of the United States;

(22) selection logging—

(A) is more job intensive, and therefore provides more employment than clearcutting and other forms of even-age logging operations to manage the same quantity of timber production; and

(B) produces higher quality sawlogs than clearcutting and other forms of even-age logging operations; and

(23) the judicial remedies available to enforce Federal forest laws are inadequate, and should be strengthened by providing for injunctions, declaratory judgments, statutory damages, and reasonable costs of suit.

(b) PURPOSE.—The purpose of this Act is to conserve native biodiversity and protect all native ecosystems on all Federal land against losses that result from—

(1) clearcutting and other forms of even-age logging operations; and

(2) logging in Ancient forests, roadless areas, watershed protection areas, and special areas.

TITLE I—LAND MANAGEMENT

SEC. 101. COMMITTEE OF SCIENTISTS.

Section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604) is amended by striking subsection (h) and inserting the following:

''(h) COMMITTEE OF SCIENTISTS.—

''(1) IN GENERAL.—To carry out subsection (g), the Secretary shall appoint a committee composed of scientists—

''(A) who are not officers or employees of the Forest Service, of any other public entity, or of any entity engaged in whole or in part in the production of wood or wood products;

''(B) not more than one-third of whom have contracted with or represented any entity described in subparagraph (A) during the 5-year period ending on the date of the proposed appointment to the committee; and

''(C) not more than one-third of whom are foresters.

''(2) QUALIFICATIONS OF FORESTERS.—A forester appointed to the committee shall be an individual with—

''(A) extensive training in conservation biology; and

''(B) field experience in selection management.

''(3) DUTIES.—The committee shall provide scientific and technical advice and counsel on proposed guidelines and procedures and all other issues involving forestry and native biodiversity to promote an effective interdisciplinary approach to forestry and native biodiversity.

''(4) TERMINATION.—The committee shall terminate on the date that is 10 years after the date of enactment of the Act to Save America's Forests.''

SEC. 102. CONTINUOUS FOREST INVENTORY.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, each of the Chief of the Forest Service, the Director of the United States Fish and Wildlife Service, and the Director of the Bureau of Land Management (referred to individually as an ''agency head'') shall prepare a continuous inventory of forest land administered by those agency heads, respectively.

(b) REQUIREMENTS.—A continuous forest inventory shall constitute a long-term monitoring and inventory system that—

(1) is contiguous throughout affected Federal forest land; and

(2) is based on a set of permanent plots that are inventoried every 10 years to—

(A) assess the impacts that human activities are having on management of the ecosystem;

(B) gauge—

(i) floristic and faunistic diversity, abundance, and dominance; and

(ii) economic and social value; and

(C) monitor changes in the age, structure, and diversity of species of trees and other vegetation.

(c) DECENNIAL INVENTORIES.—Each decennial inventory under subsection (b)(2) shall be completed not more than 60 days after the date on which the inventory is begun.

(d) NATIONAL ACADEMY OF SCIENCES.—In preparing a continuous forest inventory, an agency head may use the services of the National Academy of Sciences to—

(1) develop a system for the continuous forest inventory by which certain guilds or indicator species are measured; and

(2) identify any changes to the continuous forest inventory that are necessary to ensure that the continuous forest inventory is consistent with the most accurate scientific methods.

(e) WHOLE-SYSTEM MEASURES.—At the end of each forest planning period, an agency head shall document whole-system measures that will be taken as a result of a decennial inventory.

(f) PUBLIC AVAILABILITY.—Results of a continuous forest inventory shall be made available to the public without charge.

SEC. 103. ADMINISTRATION AND MANAGEMENT.

The Forest and Rangeland Renewable Resources Planning Act of 1974 is amended by adding after section 6 (16 U.S.C. 1604) the following:

''SEC. 6A. CONSERVATION OF NATIVE BIODIVERSITY; SELECTION LOGGING; PROHIBITION OF CLEARCUTTING.

''(a) APPLICABILITY.—This section applies to the administration and management of—

''(1) National Forest System land, under this Act;

''(2) Federal land, under the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and

''(3) National Wildlife Refuge System land, under the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.).

''(b) NATIVE BIODIVERSITY IN FORESTED AREAS.—The Secretary shall provide for the conservation or restoration of native biodiversity in each stand and each watershed throughout each forested area, except during the extraction stage of authorized mineral development or during authorized construction projects, in which cases the Secretary shall conserve native biodiversity to the maximum extent practicable.

''(c) RESTRICTION ON USE OF CERTAIN LOGGING PRACTICES.—

''(1) DEFINITIONS.—In this subsection:

''(A) AGE DIVERSITY.—The term 'age diversity' means the naturally occurring range and distribution of age classes within a given species.

''(B) BASAL AREA.—The term 'basal area' means the area of the cross section of a tree stem, including the bark, at 4.5 feet above the ground.

''(C) CLEARCUTTING.—The term 'clearcutting' means an even-age logging operation that removes all of the trees over a considerable portion of a stand at 1 time.

''(D) CONSERVATION.—The term 'conservation' means protective measures for maintaining native biodiversity and active and passive measures for restoring diversity through management efforts, in order to protect, restore, and enhance as much of the variety of species and communities as practicable in abundances and distributions that provide for their continued existence and normal functioning, including the viability of populations throughout their natural geographic distributions.

''(E) EVEN-AGE LOGGING OPERATION.—

''(i) IN GENERAL.—The term 'even-age logging operation' means a logging activity that—

''(I) creates a clearing or opening that exceeds ⅕ acre;

''(II) creates a stand in which the majority of trees are within 10 years of the same age; or

''(III) within a period of 30 years, cuts or removes more than the lesser of—

''(aa) the growth of the basal area of all tree species (not including a tree of a non-native invasive tree species or an invasive plantation species) in a stand; or

''(bb) 20 percent of the basal area of a stand.

''(ii) INCLUSION.—The term 'even-age logging operation' includes the application of clearcutting, high grading, seed-tree cutting, shelterwood cutting, or any other logging method in a manner inconsistent with selection management.

''(iii) EXCLUSION.—The term 'even-age logging operation' does not include the cutting or removal of—

''(I) a tree of a non-native invasive tree species; or

''(II) an invasive plantation species, if native longleaf pine are planted in place of the removed invasive plantation species.

''(F) GENETIC DIVERSITY.—The term 'genetic diversity' means the differences in genetic composition within and among populations of a species.

''(G) HIGH GRADING.—The term 'high grading' means the removal of only the larger or more commercially valuable trees in a stand, resulting in an alteration in the natural range of age diversity or species diversity in the stand.

''(H) INVASIVE PLANTATION SPECIES.—The term 'invasive plantation species' means a loblolly pine or slash pine that was planted or managed by the Forest Service or any other Federal agency as part of an even-aged monoculture tree plantation.

''(I) NATIVE BIODIVERSITY.—

''(i) IN GENERAL.—The term 'native biodiversity' means—

''(I) the full range of variety and variability within and among living organisms; and

''(II) the ecological complexes in which the living organisms would have occurred (including naturally occurring disturbance regimes) in the absence of significant human impact.

''(ii) INCLUSIONS.—The term 'native biodiversity' includes diversity—

''(I) within a species (including genetic diversity, species diversity, and age diversity);

''(II) within a community of species;

''(III) between communities of species;

''(IV) within a discrete area, such as a watershed;

''(V) along a vertical plane from ground to sky, including application of the plane to all the other types of diversity; and

''(VI) along the horizontal plane of the land surface, including application of the plane to all the other types of diversity.

''(J) NON-NATIVE INVASIVE TREE SPECIES.—

''(i) IN GENERAL.—The term 'non-native invasive tree species' means a species of tree not native to North America.

''(ii) INCLUSIONS.—The term 'non-native invasive tree species' includes—

''(I) Australian pine (Casaurina equisetifolia);

''(II) Brazilian pepper (Schinus terebinthifolius);

''(III) Common buckthorn (Rhamnus cathartica);

''(IV) Eucalyptus (Eucalyptus globulus);

''(V) Glossy buckthorn (Rhamnus frangula);

''(VI) Melaleuca (Melaleuca quinquenervia);

''(VII) Norway maple (Acer platanoides);

''(VIII) Princess tree (Paulownia tomentosa);

''(IX) Salt cedar (Tamarix species);

''(X) Silk tree (Albizia julibrissin);

''(XI) Strawberry guava (Psidium cattleianum);

''(XII) Tree-of-heaven (Ailanthus altissima);

''(XIII) Velvet tree (Miconia calvescens); and

''(XIV) White poplar (Populus alba).

''(K) SEED-TREE CUT.—The term 'seed-tree cut' means an even-age logging operation that leaves a small minority of seed trees in a stand for any period of time.

''(L) SELECTION MANAGEMENT.—

''(i) IN GENERAL.—The term 'selection management' means a method of logging that emphasizes the periodic, individual selection and removal of varying size and age classes of the weaker, nondominant cull trees in a stand and leaves uncut the stronger dominant trees to survive and reproduce, in a manner that works with natural forest processes and—

''(I) ensures the maintenance of continuous high forest cover where high forest cover naturally occurs;

''(II) ensures the maintenance or natural regeneration of all native species in a stand;

''(III) ensures the growth and development of trees through a range of diameter or age classes to provide a sustained yield of forest products including clean water, rich soil, and native plants and wildlife; and

''(IV) ensures that some dead trees, standing and downed, shall be left in each stand where selection logging occurs, to fulfill their necessary ecological functions in the forest ecosystem, including providing elemental and organic nutrients to the soil, water retention, and habitat for endemic insect species that provide the primary food source for predators (including various species of amphibians and birds, such as cavity nesting woodpeckers).

''(ii) EXCLUSION.—

''(I) IN GENERAL.—Subject to subclause (II), the term 'selection management' does not include an even-age logging operation.

''(II) FELLING AGE; NATIVE BIODIVERSITY.—Subclause (I) does not—

''(aa) establish a 150-year projected felling age as the standard at which individual trees in a stand are to be cut; or

''(bb) limit native biodiversity to that which occurs within the context of a 150-year projected felling age.

''(M) SHELTERWOOD CUT.—The term 'shelterwood cut' means an even-age logging operation that leaves—

''(i) a minority of the stand (larger than a seed-tree cut) as a seed source; or

''(ii) a protection cover remaining standing for any period of time.

''(N) SPECIES DIVERSITY.—The term 'species diversity' means the richness and variety of native species in a particular location.

''(O) STAND.—The term 'stand' means a biological community of trees on land described in subsection (a), comprised of not more than 100 contiguous acres with sufficient identity of 1 or more characteristics (including location, topography, and dominant species) to be managed as a unit.

''(P) TIMBER PURPOSE.—

''(i) IN GENERAL.—The term 'timber purpose' means the use, sale, lease, or distribution of trees, including the felling of trees or portions of trees.

''(ii) EXCEPTION.—The term 'timber purpose' does not include the felling of trees or portions of trees to create land space for a Federal administrative structure.

''(Q) WITHIN-COMMUNITY DIVERSITY.—The term 'within-community diversity' means the distinctive assemblages of species and ecological processes that occur in various physical settings of the biosphere and distinct locations.

''(2) PROHIBITION OF CLEARCUTTING AND OTHER FORMS OF EVEN-AGE LOGGING OPERATIONS.—No clearcutting or other form of even-age logging operation shall be permitted in any stand or watershed.

''(3) MANAGEMENT OF NATIVE BIODIVERSITY.—On each stand on which an even-age logging operation has been conducted on or before the date of enactment of this section, and on each deforested area managed for timber purposes on or before the date of enactment of this section, excluding areas occupied by existing buildings, the Secretary shall—

''(A) prescribe a shift to selection management; or

''(B) cease managing the stand for timber purposes, in which case the Secretary shall—

''(i) undertake an active restoration of the native biodiversity of the stand; or

''(ii) permit the stand to regain native biodiversity.

''(4) ENFORCEMENT.—

''(A) FINDING.—Congress finds that all people of the United States are injured by actions on land to which subsection (g)(3)(B) and this subsection applies.

''(B) PURPOSE.—The purpose of this paragraph is to foster the widest and most effective possible enforcement of subsection (g)(3)(B) and this subsection.

''(C) FEDERAL ENFORCEMENT.—The Secretary of Agriculture, the Secretary of the Interior, and the Attorney General shall enforce subsection (g)(3)(B) and this subsection against any person that violates 1 or more of those provisions.

''(D) CITIZEN SUITS.—

''(i) IN GENERAL.—A citizen harmed by a violation of subsection (g)(3)(B) or this subsection may bring a civil action in United States district court for a declaratory judgment, a temporary restraining order, an injunction, statutory damages, or other remedy against any alleged violator, including the United States.

''(ii) JUDICIAL RELIEF.—If a district court of the United States determines that a violation of subsection (g)(3)(B) or this subsection has occurred, the district court—

''(I) shall impose a damage award of not less than $5,000;

''(II) may issue 1 or more injunctions or other forms of equitable relief; and

''(III) shall award to the plaintiffs reasonable costs of bringing the action, including attorney's fees, witness fees, and other necessary expenses.

''(iii) STANDARD OF PROOF.—The standard of proof in all actions under this subparagraph shall be the preponderance of the evidence.

''(iv) TRIAL.—A trial for any action under this subsection shall be de novo.

''(E) PAYMENT OF DAMAGES.—

''(i) NON-FEDERAL VIOLATOR.—A damage award under subparagraph (D)(ii) shall be paid to the Treasury by a non-Federal violator or violators designated by the court.

''(ii) FEDERAL VIOLATOR.—

''(I) IN GENERAL.—Not later than 40 days after the date on which judgment is rendered, a damage award under subparagraph (D)(ii) for which the United States is determined to be liable shall be paid from the Treasury, as provided under section 1304 of title 31, United States Code, to the person or persons designated to receive the damage award.

''(II) USE OF DAMAGE AWARD.—A damage award described under subclause (I) shall be used by the recipient to protect or restore native biodiversity on Federal land or on land adjoining Federal land.

''(III) COURT COSTS.—Any award of costs of litigation and any award of attorney fees shall be paid by a Federal violator not later than 40 days after the date on which judgment is rendered.

''(F) WAIVER OF SOVEREIGN IMMUNITY.—

''(i) IN GENERAL.—The United States (including agents and employees of the United States) waives its sovereign immunity in all respects in all actions under subsection (g)(3)(B) and this subsection.

''(ii) NOTICE.—No notice is required to enforce this subsection.''.

SEC. 104. CONFORMING AMENDMENTS.

Section 6(g)(3) of the Forest and Rangeland Renewable Resource Planning Act of 1974 (16 U.S.C. 1604(g)(3)) is amended—

(1) in subparagraph (D), by inserting ''and'' after the semicolon at the end;

(2) in subparagraph (E), by striking ''; and'' and inserting a period; and

(3) by striking subparagraph (F).

TITLE II—PROTECTION FOR ANCIENT FORESTS, ROADLESS AREAS, WATERSHED PROTECTION AREAS, AND SPECIAL AREAS

SEC. 201. FINDINGS.

Congress finds that—

(1) unfragmented forests on Federal land, unique and valuable assets to the general public, are damaged by extractive logging;

(2) less than 10 percent of the original unlogged forests of the United States remain, and the vast majority of the remnants of the original forests of the United States are located on Federal land;

(3) large, unfragmented forest watersheds provide high-quality water supplies for drinking, agriculture, industry, and fisheries across the United States;

(4) the most recent scientific studies indicate that several thousand species of plants and animals are dependent on large, unfragmented forest areas;

(5) many neotropical migratory songbird species are experiencing documented broad-scale population declines and require large, unfragmented forests to ensure their survival;

(6) destruction of large-scale natural forests has resulted in a tremendous loss of jobs

in the fishing, hunting, tourism, recreation, and guiding industries, and has adversely affected sustainable nontimber forest products industries such as the collection of mushrooms and herbs;

(7) extractive logging programs on Federal land are carried out at enormous financial costs to the Treasury and taxpayers of the United States;

(8) Ancient forests continue to be threatened by logging and deforestation and are rapidly disappearing;

(9) Ancient forests help regulate atmospheric balance, maintain biodiversity, and provide valuable scientific opportunity for monitoring the health of the planet;

(10) prohibiting extractive logging in the Ancient forests would create the best conditions for ensuring stable, well distributed, and viable populations of the northern spotted owl, marbled murrelet, American marten, and other vertebrates, invertebrates, vascular plants, and nonvascular plants associated with those forests;

(11) prohibiting extractive logging in the Ancient forests would create the best conditions for ensuring stable, well distributed, and viable populations of anadromous salmonids, resident salmonids, and bull trout;

(12) roadless areas are de facto wilderness that provide wildlife habitat and recreation;

(13) large unfragmented forests, contained in large part on roadless areas on Federal land, are among the last refuges for native animal and plant biodiversity, and are vital to maintaining viable populations of threatened, endangered, sensitive, and rare species;

(14) roads cause soil erosion, disrupt wildlife migration, and allow nonnative species of plants and animals to invade native forests;

(15) the mortality and reproduction patterns of forest dwelling animal populations are adversely affected by traffic-related fatalities that accompany roads;

(16) the exceptional recreational, biological, scientific, or economic assets of certain special forested areas on Federal land are valuable to the public of the United States and are damaged by extractive logging;

(17) in order to gauge the effectiveness and appropriateness of current and future resource management activities, and to continue to broaden and develop our understanding of silvicultural practices, many special forested areas need to remain in a natural, unmanaged state to serve as scientifically established baseline control forests;

(18) certain special forested areas provide habitat for the survival and recovery of endangered and threatened plant and wildlife species, such as grizzly bears, spotted owls, Pacific salmon, and Pacific yew, that are harmed by extractive logging;

(19) many special forested areas on Federal land are considered sacred sites by native peoples; and

(20) as a legacy for the enjoyment, knowledge, and well-being of future generations, provisions must be made for the protection and perpetuation of the Ancient forests, roadless areas, watershed protection areas, and special areas of the United States.

SEC. 202. DEFINITIONS.

In this title:

(1) ANCIENT FOREST.—The term ''Ancient forest'' means—

(A) the northwest Ancient forests, including—

(i) Federal land identified as late-successional reserves, riparian reserves, and key watersheds under the heading ''Alternative 1'' of the report entitled ''Final Supplemental Environmental Impact Statement on Management of Habitat for Late-Successional and Old-Growth Forest Related Species Within the Range of the Northern Spotted Owl, Vol. I.'', and dated February 1994; and

(ii) Federal land identified by the term ''medium and large conifer multi-storied, canopied forests'' as defined in the report described in clause (i);

(B) the eastside Cascade Ancient forests, including—

(i) Federal land identified as ''Late-Succession/Old-growth Forest (LS/OG)'' depicted on maps for the Colville National Forest, Fremont National Forest, Malheur National Forest, Ochoco National Forest, Umatilla National Forest, Wallowa-Whitman National Forest, and Winema National Forest in the report entitled ''Interim Protection for Late-Successional Forests, Fisheries, and Watersheds: National Forests East of the Cascade Crest, Oregon, and Washington'', prepared by the Eastside Forests Scientific Society Panel (The Wildlife Society, Technical Review 94–2, August 1994);

(ii) Federal land east of the Cascade crest in the States of Oregon and Washington, defined as ''late successional and old-growth forests'' in the general definition on page 28 of the report described in clause (i); and

(iii) Federal land classified as ''Oregon Aquatic Diversity Areas'', as defined in the report described in clause (i); and

(C) the Sierra Nevada Ancient forests, including—

(i) Federal land identified as ''Areas of Late-Successional Emphasis (ALSE)'' in the report entitled, ''Final Report to Congress: Status of the Sierra Nevada'', prepared by the Sierra Nevada Ecosystem Project (Wildland Resources Center Report #40, University of California, Davis, 1996/97);

(ii) Federal land identified as ''Late-Succession/Old-Growth Forests Rank 3, 4 or 5'' in the report described in clause (i); and

(iii) Federal land identified as ''Potential Aquatic Diversity Management Areas'' on the map on page 1497 of Volume II of the report described in clause (i).

(2) EXTRACTIVE LOGGING.—The term ''extractive logging'' means the felling or removal of any trees from Federal forest land for any purpose.

(3) IMPROVED ROAD.—The term ''improved road'' means any road maintained for travel by standard passenger type vehicles.

(4) ROADLESS AREA.—The term ''roadless area'' means a contiguous parcel of Federal land that is—

(A) devoid of improved roads, except as provided in subparagraph (B); and

(B) composed of—

(i) at least 1,000 acres west of the 100th meridian (with up to ½ mile of improved roads per 1,000 acres);

(ii) at least 1,000 acres east of the 100th meridian (with up to ½ mile of improved roads per 1,000 acres); or

(iii) less than 1,000 acres, but share a border that is not an improved road with a wilderness area, primitive area, or wilderness study area.

(5) SECRETARY.—The term ''Secretary'', with respect to any Federal land in an Ancient forest, roadless area, watershed protection area, or special area, means the head of the Federal agency having jurisdiction over the Federal land.

(6) SPECIAL AREA.—The term ''special area'' means an area of Federal forest land designated under section 3 that may not meet the definition of an Ancient forest, roadless area, or watershed protection area, but that—

(A) possesses outstanding biological, scenic, recreational, or cultural values; and

(B) is exemplary on a regional, national, or international level.

(7) WATERSHED PROTECTION AREA.—The term ''watershed protection area'' means Federal land that extends—

(A) 300 feet from both sides of the active stream channel of any permanently flowing stream or river;

(B) 100 feet from both sides of the active channel of any intermittent, ephemeral, or seasonal stream, or any other nonpermanently flowing drainage feature having a definable channel and evidence of annual scour or deposition of flow-related debris;

(C) 300 feet from the edge of the maximum level of any natural lake or pond; or

(D) 150 feet from the edge of the maximum level of a constructed lake, pond, or reservoir, or a natural or constructed wetland.

SEC. 203. DESIGNATION OF SPECIAL AREAS.

(a) IN GENERAL.—

(1) FINDING.—A special area shall possess at least 1 of the values described in paragraphs (2) through (5).

(2) BIOLOGICAL VALUES.—The biological values of a special area may include the presence of—

(A) threatened species or endangered species of plants or animals;

(B) rare or endangered ecosystems;

(C) key habitats necessary for the recovery of endangered species or threatened species;

(D) recovery or restoration areas of rare or underrepresented forest ecosystems;

(E) migration corridors;

(F) areas of outstanding biodiversity;

(G) old growth forests;

(H) commercial fisheries; and

(I) sources of clean water such as key watersheds.

(3) SCENIC VALUES.—The scenic values of a special area may include the presence of—

(A) unusual geological formations;

(B) designated wild and scenic rivers;

(C) unique biota; and

(D) vistas.

(4) RECREATIONAL VALUES.—The recreational values of a special area may include the presence of—

(A) designated national recreational trails or recreational areas;

(B) areas that are popular for such recreation and sporting activities as—

(i) hunting;

(ii) fishing;

(iii) camping;

(iv) hiking;

(v) aquatic recreation; and

(vi) winter recreation;

(C) Federal land in regions that are underserved in terms of recreation;

(D) land adjacent to designated wilderness areas; and

(E) solitude.

(5) CULTURAL VALUES.—The cultural values of a special area may include the presence of—

(A) sites with Native American religious significance; and

(B) historic or prehistoric archaeological sites eligible for listing on the national historic register.

(b) SIZE VARIATION.—A special area may vary in size to encompass the outstanding biological, scenic, recreational, or cultural value or values to be protected.

(c) DESIGNATION OF SPECIAL AREAS.—There are designated the following special areas, which shall be subject to the management restrictions specified in section 204:

(1) ALABAMA.—

(A) SIPSEY WILDERNESS HEADWATERS.—Certain land in the Bankhead National Forest, Bankhead Ranger District, in Lawrence County, totaling approximately 22,000 acres, located directly north and upstream of the Sipsey Wilderness, and directly south of Forest Road 213.

(B) BRUSHY FORK.—Certain land in the Bankhead National Forest, Bankhead Ranger District, in Lawrence County, totaling approximately 6,200 acres, bounded by Forest Roads 249, 254, and 246 and Alabama Highway 33.

(C) REBECCA MOUNTAIN.—Certain land in the Talladega National Forest, Talladega Ranger District, Talladega County and Clay County, totaling approximately 9,000 acres, comprised of all Talladega National Forest lands south of Forest Roads 621 and 621 B, east of Alabama Highway 48/77 and County Highway 308, and north of the power transmission line.

(D) AUGUSTA MINE RIDGE.—Certain land in the Talladega National Forest, Shoal Creek Ranger District, Cherokee County and Cleburn County, totaling approximately 6,000 acres, and comprised of all Talladega National Forest land north of the Chief Ladiga Rail Trail.

(E) MAYFIELD CREEK.—Certain land in the Talladega National Forest, Oakmulgee Ranger District, in Rail County, totaling approximately 4,000 acres, and bounded by Forest Roads 731, 723, 718, and 718A.

(F) BEAR BAY.—Certain land in the Conecuh National Forest, Conecuh District, in Covington County, totaling approximately 3,000 acres, bounded by County Road 11, Forest Road 305, County Road 3, and the County Road connecting County Roads 3 and 11.

(2) ALASKA.—

(A) TURNAGAIN ARM.—Certain land in the Chugach National Forest, on the Kenai Peninsula, totaling approximately 100,000 acres, extending from sea level to ridgetop surrounding the inlet of Turnagain Arm, known as ''Turnagain Arm''.

(B) HONKER DIVIDE.—Certain land in the Tongass National Forest, totaling approximately 75,000 acres, located on north central Prince of Wales Island, comprising the Thorne River and Hatchery Creek watersheds, stretching approximately 40 miles northwest from the vicinity of the town of Thorne Bay to the vicinity of the town of Coffman Cove, generally known as the ''Honker Divide''.

(3) ARIZONA: NORTH RIM OF THE GRAND CANYON.—Certain land in the Kaibab National Forest that is included in the Grand Canyon Game Preserve, totaling approximately 500,000 acres, abutting the northern side of the Grand Canyon in the area generally known as the ''North Rim of the Grand Canyon''.

(4) ARKANSAS.—

(A) COW CREEK DRAINAGE, ARKANSAS.—Certain land in the Ouachita National Forest, Mena Ranger District, in Polk County, totaling approximately 7,000 acres, known as ''Cow Creek Drainage, Arkansas'', and bounded approximately—

(i) on the north, by County Road 95;

(ii) on the south, by County Road 157;

(iii) on the east, by County Road 48; and

(iv) on the west, by the Arkansas-Oklahoma border.

(B) LEADER AND BRUSH MOUNTAINS.—Certain land in the Ouachita National Forest, Montgomery County and Polk County, totaling approximately 120,000 acres, known as ''Leader Mountain'' and ''Brush Mountain'', located in the vicinity of the Blaylock Creek Watershed between Long Creek and the South Fork of the Saline River.

(C) POLK CREEK AREA.—Certain land in the Ouachita National Forest, Mena Ranger District, totaling approximately 20,000 acres, bounded by Arkansas Highway 4 and Forest Roads 73 and 43, known as the ''Polk Creek area''.

(D) LOWER BUFFALO RIVER WATERSHED.—Certain land in the Ozark National Forest, Sylamore Ranger District, totaling approximately 6,000 acres, including Forest Service land that has not been designated as a wilderness area before the date of enactment of this Act, located in the watershed of Big Creek southwest of the Leatherwood Wilderness Area, Searcy County and Marion County, and known as the ''Lower Buffalo River Watershed''.

(E) UPPER BUFFALO RIVER WATERSHED.—Certain land in the Ozark National Forest, Buffalo Ranger District, totaling approximately 220,000 acres, comprised of Forest Service that has not been designated as a wilderness area before the date of enactment of this Act, known as the ''Upper Buffalo River Watershed'', located approximately 35 miles from the town of Harrison, Madison County, Newton County, and Searcy County, upstream of the confluence of the Buffalo River and Richland Creek in the watersheds of—

(i) the Buffalo River;

(ii) the various streams comprising the Headwaters of the Buffalo River;

(iii) Richland Creek;

(iv) Little Buffalo Headwaters;

(v) Edgmon Creek;

(vi) Big Creek; and

(vii) Cane Creek.

(5) COLORADO: COCHETOPA HILLS.—Certain land in the Gunnison Basin area, known as the ''Cochetopa Hills'', administered by the Gunnison National Forest, Grand Mesa National Forest, Uncompahgre National Forest, and Rio Grand National Forest, totaling approximately 500,000 acres, spanning the continental divide south and east of the city of Gunnison, in Saguache County, and including—

(A) Elk Mountain and West Elk Mountain;

(B) the Grand Mesa;

(C) the Uncompahgre Plateau;

(D) the northern San Juan Mountains;

(E) the La Garitas Mountains; and

(F) the Cochetopa Hills.

(6) GEORGIA.—

(A) ARMUCHEE CLUSTER.—Certain land in the Chattahoochee National Forest, Armuchee Ranger District, known as the ''Armuchee Cluster'', totaling approximately 19,700 acres, comprised of 3 parcels known as ''Rocky Face'', ''Johns Mountain'', and ''Hidden Creek'', located approximately 10 miles southwest of Dalton and 14 miles north of Rome, in Whitfield County, Walker County, Chattooga County, Floyd County, and Gordon County.

(B) BLUE RIDGE CORRIDOR CLUSTER, GEORGIA AREAS.—Certain land in the Chattahoochee National Forest, Chestatee Ranger District, totaling approximately 15,000 acres, known as the ''Blue Ridge Corridor Cluster, Georgia Areas'', comprised of 5 parcels known as ''Horse Gap'', ''Hogback Mountain'', ''Blackwell Creek'', ''Little Cedar Mountain'', and ''Black Mountain'', located approximately 15 to 20 miles north of the town of Dahlonega, in Union County and Lumpkin County.

(C) CHATTOOGA WATERSHED CLUSTER, GEORGIA AREAS.—Certain land in the Chattahoochee National Forest, Tallulah Ranger District, totaling 63,500 acres, known as the ''Chattooga Watershed Cluster, Georgia Areas'', comprised of 7 areas known as ''Rabun Bald'', ''Three Forks'', ''Ellicott Rock Extension'', ''Rock Gorge'', ''Big Shoals'', ''Thrift's Ferry'', and ''Five Falls'', in Rabun County, near the towns of Clayton, Georgia, and Dillard, South Carolina.

(D) COHUTTA CLUSTER.—Certain land in the Chattahoochee National Forest, Cohutta Ranger District, totaling approximately 28,000 acres, known as the ''Cohutta Cluster'', comprised of 4 parcels known as ''Cohutta Extensions'', ''Grassy Mountain'', ''Emery Creek'', and ''Mountaintown'', near the towns of Chatsworth and Ellijay, in Murray County, Fannin County, and Gilmer County.

(E) DUNCAN RIDGE CLUSTER.—Certain land in the Chattahoochee National Forest, Brasstown and Toccoa Ranger Districts, totaling approximately 17,000 acres, known as the ''Duncan Ridge Cluster'', comprised of the parcels known as ''Licklog Mountain'', ''Duncan Ridge'', ''Board Camp'', and ''Cooper Creek Scenic Area Extension'', approximately 10 to 15 miles south of the town of Blairsville, in Union County and Fannin County.

(F) ED JENKINS NATIONAL RECREATION AREA CLUSTER.—Certain land in the Chattahoochee National Forest, Toccoa and Chestatee Ranger Districts, totaling approximately 19,300 acres, known as the ''Ed Jenkins National Recreation Area Cluster'', comprised of the Springer Mountain, Mill Creek, and Toonowee parcels, 30 miles north of the town of Dahlonega, in Fannin County, Dawson County, and Lumpkin County.

(G) GAINESVILLE RIDGES CLUSTER.—Certain land in the Chattahoochee National Forest, Chattooga Ranger District, totaling approximately 14,200 acres, known as the ''Gainesville Ridges Cluster'', comprised of 3 parcels known as ''Panther Creek'', ''Tugaloo Uplands'', and ''Middle Fork Broad River'', approximately 10 miles from the town of Toccoa, in Habersham County and Stephens County.

(H) NORTHERN BLUE RIDGE CLUSTER, GEORGIA AREAS.—Certain land in the Chattahoochee National Forest, Brasstown and Tallulah Ranger Districts, totaling approximately 46,000 acres, known as the ''Northern Blue Ridge Cluster, Georgia Areas'', comprised of 8 areas known as ''Andrews Cove'', ''Anna Ruby Falls Scenic Area Extension'', ''High Shoals'', ''Tray Mountain Extension'', ''Kelly Ridge-Moccasin Creek'', ''Buzzard Knob'', ''Southern Nantahala Extension'', and ''Patterson Gap'', approximately 5 to 15 miles north of Helen, 5 to 15 miles southeast of Hiawassee, north of Clayton, and west of Dillard, in White County, Towns County, and Rabun County.

(I) RICH MOUNTAIN CLUSTER.—Certain land in the Chattahoochee National Forest, Toccoa Ranger District, totaling approximately 9,500 acres, known as the ''Rich Mountain Cluster'', comprised of the parcels known as ''Rich Mountain Extension'' and ''Rocky Mountain'', located 10 to 15 miles northeast of the town of Ellijay, in Gilmer County and Fannin County.

(J) WILDERNESS HEARTLANDS CLUSTER, GEORGIA AREAS.—Certain land in the Chattahoochee National Forest, Chestatee, Brasstown and Chattooga Ranger Districts, totaling approximately 16,500 acres, known as the ''Wilderness Heartlands Cluster, Georgia Areas'', comprised of 4 parcels known as the ''Blood Mountain Extensions'', ''Raven Cliffs Extensions'', ''Mark Trail Extensions'', and ''Brasstown Extensions'', near the towns of Dahlonega, Cleveland, Helen, and Blairsville, in Lumpkin County, Union County, White County, and Towns County.

(7) IDAHO.—

(A) COVE/MALLARD.—Certain land in the Nez Perce National Forest, totaling approximately 94,000 acres, located approximately 30 miles southwest of the town of Elk City, and west of the town of Dixie, in the area generally known as ''Cove/Mallard''.

(B) MEADOW CREEK.—Certain land in the Nez Perce National Forest, totaling approximately 180,000 acres, located approximately 8 miles east of the town of Elk City in the area generally known as ''Meadow Creek''.

(C) FRENCH CREEK/PATRICK BUTTE.—Certain land in the Payette National Forest, totaling approximately 141,000 acres, located approximately 20 miles north of the town of McCall

in the area generally known as ''French Creek/Patrick Butte''.

(8) ILLINOIS.—

(A) CRIPPS BEND.—Certain land in the Shawnee National Forest, totaling approximately 39 acres, located in Jackson County in the Big Muddy River watershed, in the area generally known as ''Cripps Bend''.

(B) OPPORTUNITY AREA 6.—Certain land in the Shawnee National Forest, totaling approximately 50,000 acres, located in northern Pope County surrounding Bell Smith Springs Natural Area, in the area generally known as ''Opportunity Area 6''.

(C) QUARREL CREEK.—Certain land in the Shawnee National Forest, totaling approximately 490 acres, located in northern Pope County in the Quarrel Creek watershed, in the area generally known as ''Quarrel Creek''.

(9) MICHIGAN: TRAP HILLS.—Certain land in the Ottawa National Forest, Bergland Ranger District, totaling approximately 37,120 acres, known as the ''Trap Hills'', located approximately 5 miles from the town of Bergland, in Ontonagon County.

(10) MINNESOTA.—

(A) TROUT LAKE AND SUOMI HILLS.—Certain land in the Chippewa National Forest, totaling approximately 12,000 acres, known as ''Trout Lake/Suomi Hills'' in Itasca County.

(B) LULLABY WHITE PINE RESERVE.—Certain land in the Superior National Forest, Gunflint Ranger District, totaling approximately 2,518 acres, in the South Brule Opportunity Area, northwest of Grand Marais in Cook County, known as the ''Lullaby White Pine Reserve''.

(11) MISSOURI: ELEVEN POINT-BIG SPRINGS AREA.—Certain land in the Mark Twain National Forest, Eleven Point Ranger District, totaling approximately 200,000 acres, comprised of the administrative area of the Eleven Point Ranger District, known as the ''Eleven Point-Big Springs Area''.

(12) MONTANA: MOUNT BUSHNELL.—Certain land in the Lolo National Forest, totaling approximately 41,000 acres, located approximately 5 miles southwest of the town of Thompson Falls in the area generally known as ''Mount Bushnell''.

(13) NEW MEXICO.—

(A) ANGOSTURA.—Certain land in the eastern half of the Carson National Forest, Camino Real Ranger District, totaling approximately 10,000 acres, located in Township 21, Ranges 12 and 13, known as ''Angostura'', and bounded—

(i) on the northeast, by Highway 518;

(ii) on the southeast, by the Angostura Creek watershed boundary;

(iii) on the southern side, by Trail 19 and the Pecos Wilderness; and

(iv) on the west, by the Agua Piedra Creek watershed.

(B) LA MANGA.—Certain land in the western half of the Carson National Forest, El Rito Ranger District, at the Vallecitos Sustained Yield Unit, totaling approximately 5,400 acres, known as ''La Manga'', in Township 27, Range 6, and bounded—

(i) on the north, by the Tierra Amarilla Land Grant;

(ii) on the south, by Canada Escondida;

(iii) on the west, by the Sustained Yield Unit boundary and the Tierra Amarilla Land Grant; and

(iv) on the east, by the Rio Vallecitos.

(C) ELK MOUNTAIN.—Certain land in the Santa Fe National Forest, totaling approximately 7,220 acres, known as ''Elk Mountain'' located in Townships 17 and 18 and Ranges 12 and 13, and bounded—

(i) on the north, by the Pecos Wilderness;

(ii) on the east, by the Cow Creek Watershed;

(iii) on the west, by the Cow Creek; and

(iv) on the south, by Rito de la Osha.

(D) JEMEZ HIGHLANDS.—Certain land in the Jemez Ranger District of the Santa Fe National Forest, totaling approximately 54,400 acres, known as the ''Jemez Highlands'', located primarily in Sandoval County.

(14) NORTH CAROLINA.—

(A) CENTRAL NANTAHALA CLUSTER, NORTH CAROLINA AREAS.—Certain land in the Nantahala National Forest, Tusquitee, Cheoah, and Wayah Ranger Districts, totaling approximately 107,000 acres, known as the ''Central Nantahala Cluster, North Carolina Areas'', comprised of 9 parcels known as ''Tusquitee Bald'', ''Shooting Creek Bald'', ''Cheoah Bald'', ''Piercy Bald'', ''Wesser Bald'', ''Tellico Bald'', ''Split White Oak'', ''Siler Bald'', and ''Southern Nantahala Extensions'', near the towns of Murphy, Franklin, Bryson City, Andrews, and Beechertown, in Cherokee County, Macon County, Clay County, and Swain County.

(B) CHATTOOGA WATERSHED CLUSTER, NORTH CAROLINA AREAS.—Certain land in the Nantahala National Forest, Highlands Ranger District, totaling approximately 8,000 acres, known as the ''Chattooga Watershed Cluster, North Carolina Areas'', comprised of the Overflow (Blue Valley) and Terrapin Mountain parcels, 5 miles from the town of Highlands, in Macon County and Jackson County.

(C) TENNESSEE BORDER CLUSTER, NORTH CAROLINA AREAS.—Certain land in the Nantahala National Forest, Tusquitee and Cheoah Ranger Districts, totaling approximately 28,000 acres, known as the ''Tennessee Border Cluster, North Carolina Areas'', comprised of the 4 parcels known as the ''Unicoi Mountains'', ''Deaden Tree'', ''Snowbird'', and ''Joyce Kilmer-Slickrock Extension'', near the towns of Murphy and Robbinsville, in Cherokee County and Graham County.

(D) BALD MOUNTAINS.—Certain land in the Pisgah National Forest, French Broad Ranger District, totaling approximately 13,000 acres known as the ''Bald Mountains'', located 12 miles northeast of the town of Hot Springs, in Madison County.

(E) BIG IVY TRACT.—Certain land in the Pisgah National Forest, totaling approximately 14,000 acres, located approximately 15 miles west of Mount Mitchell in the area generally known as the ''Big Ivy Tract''.

(F) BLACK MOUNTAINS CLUSTER, NORTH CAROLINA AREAS.—Certain land in the Pisgah National Forest, Toecane and Grandfather Ranger Districts, totaling approximately 62,000 acres, known as the ''Black Mountains Cluster, North Carolina Areas'', comprised of 5 parcels known as ''Craggy Mountains'', ''Black Mountains'', ''Jarrett Creek'', ''Mackey Mountain'', and ''Woods Mountain'', near the towns of Burnsville, Montreat and Marion, in Buncombe County, Yancey County, and McDowell County.

(G) LINVILLE CLUSTER.—Certain land in the Pisgah National Forest, Grandfather District, totaling approximately 42,000 acres, known as the ''Linville Cluster'', comprised of 7 parcels known as ''Dobson Knob'', ''Linville Gorge Extension'', ''Steels Creek'', ''Sugar Knob'', ''Harper Creek'', ''Lost Cove'', and ''Upper Wilson Creek'', near the towns of Marion, Morgantown, Spruce Pine, Linville, and Blowing Rock, in Burke County, McDowell County, Avery County, and Caldwell County.

(H) NOLICHUCKY, NORTH CAROLINA AREA.—Certain land in the Pisgah National Forest, Toecane Ranger District, totaling approximately 4,000 acres, known as the ''Nolichucky, North Carolina Area'', located 25 miles northwest of Burnsville, in Mitchell County and Yancey County.

(I) PISGAH CLUSTER, NORTH CAROLINA AREAS.—Certain land in the Pisgah National Forest, Pisgah Ranger District, totaling approximately 52,000 acres, known as the ''Pisgah Cluster, North Carolina Areas'', comprised of 5 parcels known as ''Shining Rock and Middle Prong Extensions'', ''Daniel Ridge'', ''Cedar Rock Mountain'', ''South Mills River'', and ''Laurel Mountain'', 5 to 12 miles north of the town of Brevard and southwest of the city of Asheville, in Haywood County, Transylvania County, and Henderson County.

(J) WILDCAT.—Certain land in the Pisgah National Forest, French Broad Ranger District, totaling approximately 6,500 acres, known as ''Wildcat'', located 20 miles northwest of the town of Canton, in Haywood County.

(15) OHIO.—

(A) ARCHERS FORK COMPLEX.—Certain land in the Marietta Unit of the Athens Ranger District, in the Wayne National Forest, in Washington County, known as ''Archers Fork Complex'', totaling approximately 18,350 acres, located northeast of Newport and bounded—

(i) on the northwest, by State Highway 26;

(ii) on the northeast, by State Highway 260;

(iii) on the southeast, by the Ohio River; and

(iv) on the southwest, by Bear Run and Danas Creek.

(B) BLUEGRASS RIDGE.—Certain land in the Ironton Ranger District on the Wayne National Forest, in Lawrence County, known as ''Bluegrass Ridge'', totaling approximately 4,000 acres, located 3 miles east of Etna in Township 4 North, Range 17 West, Sections 19 through 23 and 27 through 30.

(C) BUFFALO CREEK.—Certain land in the Ironton Ranger District of the Wayne National Forest, Lawrence County, Ohio, known as ''Buffalo Creek'', totaling approximately 6500 acres, located 4 miles northwest of Waterloo in Township 5 North, Ranger 17 West, sections 3 through 10 and 15 through 18.

(D) LAKE VESUVIUS.—Certain land in the Ironton Ranger District of the Wayne National Forest, in Lawrence County, totaling approximately 4,900 acres, generally known as ''Lake Vesuvius'', located to the east of Etna in Township 2 North, Range 18 West, and bounded—

(i) on the southwest, by State Highway 93; and

(ii) on the northwest, by State Highway 4.

(E) MORGAN SISTERS.—Certain land in the Ironton Ranger District of the Wayne National Forest, in Lawrence County, known as ''Morgan Sisters'', totaling approximately 2,500 acres, located 1 mile east of Gallia and bounded by State Highway 233 in Township 6 North, Range 17 West, sections 13, 14, 23 and 24 and Township 5 North, Range 16 West, sections 18 and 19.

(F) UTAH RIDGE.—Certain land in the Athens Ranger District of the Wayne National Forest, in Athens County, known as ''Utah Ridge'', totaling approximately 9,000 acres, located 1 mile northwest of Chauncey and bounded—

(i) on the southeast, by State Highway 682 and State Highway 13;

(ii) on the southwest, by US Highway 33 and State Highway 216; and

(iii) on the north, by State Highway 665.

(G) WILDCAT HOLLOW.—Certain land in the Athens Ranger District of the Wayne National Forest, in Perry County and Morgan County, known as ''Wildcat Hollow'', totaling approximately 4,500 acres, located 1 mile east of Corning in Township 12 North, Range 14 West, sections 1, 2, 11–14, 23 and 24 and Township 8 North, Range 13 West, sections 7, 18, and 19.

(16) OKLAHOMA: COW CREEK DRAINAGE, OKLAHOMA.—Certain land in the Ouachita National Forest, Mena Ranger District, in Le Flore County, totaling approximately 3,000

acres, known as ''Cow Creek Drainage, Oklahoma'', and bounded approximately—

(A) on the west, by the Beech Creek National Scenic Area;

(B) on the north, by State Highway 63;

(C) on the east, by the Arkansas-Oklahoma border; and

(D) on the south, by County Road 9038 on the south.

(17) OREGON: APPLEGATE WILDERNESS.—Certain land in the Siskiyou National Forest and Rogue River National Forest, totaling approximately 20,000 acres, approximately 20 miles southwest of the town of Grants Pass and 10 miles south of the town of Williams, in the area generally known as the ''Applegate Wilderness''.

(18) PENNSYLVANIA.—

(A) THE BEAR CREEK SPECIAL AREA.—Certain land in the Allegheny National Forest, Marienville Ranger District, Elk County, totaling approximately 7,800 acres, and comprised of Allegheny National Forest land bounded—

(i) on the west, by Forest Service Road 136;

(ii) on the north, by Forest Service Roads 339 and 237;

(iii) on the east, by Forest Service Road 143; and

(iv) on the south, by Forest Service Road 135.

(B) THE BOGUS ROCKS SPECIAL AREA.—Certain land in the Allegheny National Forest, Marienville Ranger District, Forest County, totaling approximately 1,015 acres, and comprised of Allegheny National Forest land in compartment 714 bounded—

(i) on the northeast and east, by State Route 948;

(ii) on the south, by State Route 66;

(iii) 0n the southwest and west, by Township Road 370;

(iv) on the northwest, by Forest Service Road 632; and

(v) on the north, by a pipeline.

(C) THE CHAPPEL FORK SPECIAL AREA.—Certain land in the Allegheny National Forest, Bradford Ranger District, McKean County, totaling approximately 10,000 acres, and comprised of Allegheny National Forest land bounded—

(i) on the south and southeast, by State Road 321;

(ii) on the south, by Chappel Bay;

(iii) on the west, by the Allegheny Reservoir;

(iv) on the north, by State Route 59; and

(v) on the east, by private land.

(D) THE FOOLS CREEK SPECIAL AREA.—Certain land in the Allegheny National Forest, Bradford Ranger District, Warren County, totaling approximately 1,500 acres, and comprised of Allegheny National Forest land south and west of Forest Service Road 255 and west of FR 255A, bounded—

(i) on the west, by Minister Road; and

(ii) on the south, by private land.

(E) THE HICKORY CREEK SPECIAL AREA.—Certain land in the Allegheny National Forest, Bradford Ranger District, Warren County, totaling approximately 2,000 acres, and comprised of Allegheny National Forest land bounded—

(i) on the east and northeast, by Heart's Content Road;

(ii) on the south, by Hickory Creek Wilderness Area;

(iii) on the northwest, by private land; and

(iv) on the north, by Allegheny Front National Recreation Area.

(F) THE LAMENTATION RUN SPECIAL AREA.—Certain land in the Allegheny National Forest, Marienville Ranger District, Forest County, totaling approximately 4,500 acres, and—

(i) comprised of Allegheny National Forest land bounded—

(I) on the north, by Tionesta Creek;

(II) on the east, by Salmon Creek;

(III) on the southeast and southwest, by private land; and

(IV) on the south, by Forest Service Road 210; and

(ii) including the lower reaches of Bear Creek.

(G) THE LEWIS RUN SPECIAL AREA.—Certain land in the Allegheny National Forest, Bradford Ranger District, McKean County, totaling approximately 500 acres, and comprised of Allegheny National Forest land north and east of Forest Service Road 312.3, including land known as the ''Lewis Run Natural Area'' and consisting of land within Compartment 466, Stands 1–3, 5–8, 10–14, and 18–27.

(H) THE MILL CREEK SPECIAL AREA.—Certain land in the Allegheny National Forest, Marienville Ranger District, Elk County, totaling approximately 2,000 acres, and comprised of Allegheny National Forest land within a 1-mile radius of the confluence of Red Mill Run and Big Mill Creek and known as the ''Mill Creek Natural Area''.

(I) THE MILLSTONE CREEK SPECIAL AREA.—Certain land in the Allegheny National Forest, Marienville Ranger District, Forest County, totaling approximately 30,000 acres, and comprised of Allegheny National Forest land bounded—

(i) on the north, by State Route 66;

(ii) on the northeast, by Forest Service Road 226;

(iii) on the east, by Forest Service Roads 130, 774, and 228;

(iv) on the southeast, by State Road 3002 and Forest Service Road 189;

(v) on the south, by the Clarion River; and

(vi) on the southwest, west, and northwest, by private land.

(J) THE MINISTER CREEK SPECIAL AREA.—Certain land in the Allegheny National Forest, Bradford Ranger District, Warren County, totalling approximately 6,600 acres, and comprised of Allegheny National Forest land bounded—

(i) on the north, by a snowmobile trail;

(ii) on the east, by Minister Road;

(iii) on the south, by State Route 666 and private land;

(iv) on the southwest, by Forest Service Road 420; and

(v) on the west, by warrants 3109 and 3014.

(K) THE MUZETTE SPECIAL AREA.—Certain land in the Allegheny National Forest, Marienville Ranger District, Forest County, totaling approximately 325 acres, and comprised of Allegheny National Forest land bounded—

(i) on the west, by 79°16′ longitude, approximately;

(ii) on the north, by Forest Service Road 561;

(iii) on the east, by Forest Service Road 212; and

(iv) on the south, by private land.

(L) THE SUGAR RUN SPECIAL AREA.—Certain land in the Allegheny National Forest, Bradford Ranger District, McKean County, totaling approximately 8,800 acres, and comprised of Allegheny National Forest land bounded—

(i) on the north, by State Route 346 and private land;

(ii) on the east, by Forest Service Road 137; and

(iii) on the south and west, by State Route 321.

(M) THE TIONESTA SPECIAL AREA.—Certain land in the Allegheny National Forest, Bradford and Marienville Ranger Districts, Elk, Forest, McKean, and Warren Counties, totalling approximately 27,000 acres, and comprised of Allegheny National Forest land bounded—

(i) on the west, by private land and State Route 948;

(ii) on the northwest, by Forest Service Road 258;

(iii) on the north, by Hoffman Farm Recreation Area and Forest Service Road 486;

(iv) on the northeast, by private land and State Route 6;

(v) on the east, by private land south to Forest Road 133, then by snowmobile trail from Forest Road 133 to Windy City, then by private land and Forest Road 327 to Russell City; and

(vi) on the southwest, by State Routes 66 and 948.

(19) SOUTH CAROLINA.—

(A) BIG SHOALS, SOUTH CAROLINA AREA.—Certain land in the Sumter National Forest, Andrew Pickens Ranger District, in Oconee County, totaling approximately 2,000 acres, known as ''Big Shoals, South Carolina Area'', 15 miles south of Highlands, North Carolina.

(B) BRASSTOWN CREEK, SOUTH CAROLINA AREA.—Certain land in the Sumter National Forest, Andrew Pickens Ranger District, in Oconee County, totaling approximately 3,500 acres, known as ''Brasstown Creek, South Carolina Area'', approximately 15 miles west of Westminster, South Carolina.

(C) CHAUGA.—Certain land in the Sumter National Forest, Andrew Pickens Ranger District, in Oconee County, totaling approximately 16,000 acres, known as ''Chauga'', approximately 10 miles west of Walhalla, South Carolina.

(D) DARK BOTTOMS.—Certain land in the Sumter National Forest, Andrew Pickens Ranger District, in Oconee County, totaling approximately 4,000 acres, known as ''Dark Bottoms'', approximately 10 miles northwest of Westminster, South Carolina.

(E) ELLICOTT ROCK EXTENSION, SOUTH CAROLINA AREA.—Certain land in the Sumter National Forest, Andrew Pickens Ranger District, in Oconee County, totaling approximately 2,000 acres, known as ''Ellicott Rock Extension, South Carolina Area'', located approximately 10 miles south of Cashiers, North Carolina.

(F) FIVE FALLS, SOUTH CAROLINA AREA.—Certain land in the Sumter National Forest, Andrew Pickens Ranger District, in Oconee County, totaling approximately 3,500 acres, known as ''Five Falls, South Carolina Area'', approximately 10 miles southeast of Clayton, Georgia.

(G) PERSIMMON MOUNTAIN.—Certain land in the Sumter National Forest, Andrew Pickens Ranger District, in Oconee County, totaling approximately 7,000 acres, known as ''Persimmon Mountain'', approximately 12 miles south of Cashiers, North Carolina.

(H) ROCK GORGE, SOUTH CAROLINA AREA.—Certain land in the Sumter National Forest, Andrew Pickens Ranger District, in Oconee County, totaling approximately 2,000 acres, known as ''Rock Gorge, South Carolina Area'', 12 miles southeast of Highlands, North Carolina.

(I) TAMASSEE.—Certain land in the Sumter National Forest, Andrew Pickens Ranger District, in Oconee County, totaling approximately 5,500 acres, known as ''Tamassee'', approximately 10 miles north of Walhalla, South Carolina.

(J) THRIFT'S FERRY, SOUTH CAROLINA AREA.—Certain land in the Sumter National Forest, Andrew Pickens Ranger District, in Oconee County, totaling approximately 5,000 acres, known as ''Thrift's Ferry, South Carolina Area'', 10 miles east of Clayton, Georgia.

(20) SOUTH DAKOTA.—

(A) BLACK FOX AREA.—Certain land in the Black Hills National Forest, totaling approximately 12,400 acres, located in the upper reaches of the Rapid Creek watershed, known as the ''Black Fox Area'', and roughly bounded—

(i) on the north, by FDR 206;

(ii) on the south, by the steep slopes north of Forest Road 231; and

(iii) on the west, by a fork of Rapid Creek.

(B) BREAKNECK AREA.—Certain land in the Black Hills National Forest, totaling 6,700 acres, located along the northeast edge of the Black Hills in the vicinity of the Black Hills National Cemetery and the Bureau of Land Management's Fort Meade Recreation Area, known as the ''Breakneck Area'', and generally—

(i) bounded by Forest Roads 139 and 169 on the north, west, and south; and

(ii) demarcated along the eastern and western boundaries by the ridge-crests dividing the watershed.

(C) NORBECK PRESERVE.—Certain land in the Black Hills National Forest, totaling approximately 27,766 acres, known as the ''Norbeck Preserve'', and encompassed approximately by a boundary that, starting at the southeast corner—

(i) runs north along FDR 753 and United States Highway Alt. 16, then along SD 244 to the junction of Palmer Creek Road, which serves generally as a northwest limit;

(ii) heads south from the junction of Highways 87 and 89;

(iii) runs southeast along Highway 87; and

(iv) runs east back to FDR 753, excluding a corridor of private land along FDR 345.

(D) PILGER MOUNTAIN AREA.—Certain land in the Black Hills National Forest, totaling approximately 12,600 acres, known as the ''Pilger Mountain Area'', located in the Elk Mountains on the southwest edge of the Black Hills, and roughly bounded—

(i) on the east and northeast, by Forest Roads 318 and 319;

(ii) on the north and northwest, by Road 312; and

(iii) on the southwest, by private land.

(E) STAGEBARN CANYONS.—Certain land in the Black Hills National Forest, known as ''Stagebarn Canyons'', totaling approximately 7,300 acres, approximately 10 miles west of Rapid City, South Dakota.

(21) TENNESSEE.—

(A) BALD MOUNTAINS CLUSTER, TENNESSEE AREAS.—Certain land in the Nolichucky and Unaka Ranger Districts of the Cherokee National Forest, in Cocke County, Green County, Washington County, and Unicoi County, totaling approximately 46,133 acres, known as the ''Bald Mountains Cluster, Tennessee Areas'', and comprised of 10 parcels known as ''Laurel Hollow Mountain'', ''Devil's Backbone'', ''Laurel Mountain'', ''Walnut Mountain'', ''Wolf Creek'', ''Meadow Creek Mountain'', ''Brush Creek Mountain'', ''Paint Creek'', ''Bald Mountain'', and ''Sampson Mountain Extension'', located near the towns of Newport, Hot Springs, Greeneville, and Erwin.

(B) BIG FROG/COHUTTA CLUSTER.—Certain land in the Cherokee National Forest, in Polk County, Ocoee Ranger District, Hiwassee Ranger District, and Tennessee Ranger District, totaling approximately 28,800 acres, known as the ''Big Frog/Cohutta Cluster'', comprised of 4 parcels known as ''Big Frog Extensions'', ''Little Frog Extensions'', ''Smith Mountain'', and ''Rock Creek'', located near the towns of Copperhill, Ducktown, Turtletown, and Benton.

(C) CITICO CREEK WATERSHED CLUSTER TENNESSEE AREAS.—Certain land in the Tellico Ranger District of the Cherokee National Forest, in Monroe County, totaling approximately 14,256 acres, known as the ''Citico Creek Watershed Cluster, Tennessee Areas'', comprised of 4 parcels known as ''Flats Mountain'', ''Miller Ridge'', ''Cowcamp Ridge'', and ''Joyce Kilmer-Slickrock Extension'', near the town of Tellico Plains.

(D) IRON MOUNTAINS CLUSTER.—Certain land in the Cherokee National Forest, Watauga Ranger District, totaling approximately 58,090 acres, known as the ''Iron Mountains Cluster'', comprised of 8 parcels known as ''Big Laurel Branch Addition'', ''Hickory Flat Branch'', ''Flint Mill'', ''Lower Iron Mountain'', ''Upper Iron Mountain'', ''London Bridge'', ''Beaverdam Creek'', and ''Rodgers Ridge'', located near the towns of Bristol and Elizabethton, in Sullivan County and Johnson County.

(E) NORTHERN UNICOI MOUNTAINS CLUSTER.—Certain land in the Tellico Ranger District of the Cherokee National Forest, in Monroe County, totaling approximately 30,453 acres, known as the ''Northern Unicoi Mountain Cluster'', comprised of 4 parcels known as ''Bald River Gorge Extension'', ''Upper Bald River'', ''Sycamore Creek'', and ''Brushy Ridge'', near the town of Tellico Plains.

(F) ROAN MOUNTAIN CLUSTER.—Certain land in the Cherokee National Forest, Unaka and Watauga Ranger Districts, totaling approximately 23,725 acres known as the ''Roan Mountain Cluster'', comprised of 7 parcels known as ''Strawberry Mountain'', ''Highlands of Roan'', ''Ripshin Ridge'', ''Doe River Gorge Scenic Area'', ''White Rocks Mountain'', ''Slide Hollow'' and ''Watauga Reserve'', approximately 8 to 20 miles south of the town of Elizabethton, in Unicoi County, Carter County, and Johnson County.

(G) SOUTHERN UNICOI MOUNTAINS CLUSTER.—Certain land in the Hiwassee Ranger District of the Cherokee National Forest, in Polk County, Monroe County, and McMinn County, totaling approximately 11,251 acres, known as the ''Southern Unicoi Mountains Cluster'', comprised of 3 parcels known as ''Gee Creek Extension'', ''Coker Creek'', and ''Buck Bald'', near the towns of Etowah, Benton, and Turtletown.

(H) UNAKA MOUNTAINS CLUSTER, TENNESSEE AREAS.—Certain land in the Cherokee National Forest, Unaka Ranger District, totaling approximately 15,669 acres, known as the ''Unaka Mountains Cluster, Tennessee Areas'', comprised of 3 parcels known as ''Nolichucky'', ''Unaka Mountain Extension'', and ''Stone Mountain'', approximately 8 miles from Erwin, in Unicoi County and Carter County.

(22) TEXAS: LONGLEAF RIDGE.—Certain land in the Angelina National Forest, in Jasper County and Angelina County, totaling approximately 30,000 acres, generally known as ''Longleaf Ridge'', and bounded—

(A) on the west, by Upland Island Wilderness Area;

(B) on the south, by the Neches River; and

(C) on the northeast, by Sam Rayburn Reservoir.

(23) VERMONT.—

(A) GLASTENBURY AREA.—Certain land in the Green Mountain National Forest, totaling approximately 35,000 acres, located 3 miles northeast of Bennington, generally known as the ''Glastenbury Area'', and bounded—

(i) on the north, by Kelly Stand Road;

(ii) on the east, by Forest Road 71;

(iii) on the south, by Route 9; and

(iv) on the west, by Route 7.

(B) LAMB BROOK.—Certain land in the Green Mountain National Forest, totaling approximately 5,500 acres, located 3 miles southwest of Wilmington, generally known as ''Lamb Brook'', and bounded—

(i) on the west, by Route 8;

(ii) on the south, by Route 100;

(iii) on the north, by Route 9; and

(iv) on the east, by land owned by New England Power Company.

(C) ROBERT FROST MOUNTAIN AREA.—Certain land in the Green Mountain National Forest, totaling approximately 8,500 acres, known as ''Robert Frost Mountain Area'', located northeast of Middlebury, consisting of the Forest Service land bounded—

(i) on the west, by Route 116;

(ii) on the north, by Bristol Notch Road;

(iii) on the east, by Lincoln/Ripton Road; and

(iv) on the south, by Route 125.

(24) VIRGINIA.—

(A) BEAR CREEK.—Certain land in the Jefferson National Forest, Wythe Ranger District, known as ''Bear Creek'', north of Rural Retreat, in Smyth County and Wythe County.

(B) CAVE SPRINGS.—Certain land in the Jefferson National Forest, Clinch Ranger District, totaling approximately 3,000 acres, known as ''Cave Springs'', between State Route 621 and the North Fork of the Powell River, in Lee County.

(C) DISMAL CREEK.—Certain land totaling approximately 6,000 acres, in the Jefferson National Forest, Blacksburg Ranger District, known as ''Dismal Creek'', north of State Route 42, in Giles County and Bland County.

(D) STONE COAL CREEK.—Certain land in the Jefferson National Forest, New Castle Ranger District, totaling approximately 2,000 acres, known as ''Stone Coal Creek'', in Craig County and Botentourt County.

(E) WHITE OAK RIDGE: TERRAPIN MOUNTAIN.—Certain land in the Glenwood Ranger District of the Jefferson National Forest, known as ''White Oak Ridge—Terrapin Mountain'', totaling approximately 8,000 acres, east of the Blue Ridge Parkway, in Botentourt County and Rockbridge County.

(F) WHITETOP MOUNTAIN.—Certain land in the Jefferson National Forest, Mt. Rodgers Recreation Area, totaling 3,500 acres, known as ''Whitetop Mountain'', in Washington County, Smyth County, and Grayson County.

(G) WILSON MOUNTAIN.—Certain land known as ''Wilson Mountain'', in the Jefferson National Forest, Glenwood Ranger District, totaling approximately 5,100 acres, east of Interstate 81, in Botentourt County and Rockbridge County.

(H) FEATHERCAMP.—Certain land in the Mt. Rodgers Recreation Area of the Jefferson National Forest, totaling 4,974 acres, known as ''Feathercamp'', located northeast of the town of Damascus and north of State Route 58 on the Feathercamp ridge, in Washington County.

(25) WISCONSIN.—

(A) FLYNN LAKE.—Certain land in the Chequamegon-Nicolet National Forest, Washburn Ranger District, totaling approximately 5,700 acres, known as ''Flynn Lake'', in the Flynn Lake semi-primitive nonmotorized area, in Bayfield County.

(B) GHOST LAKE CLUSTER.—Certain land in the Chequamegon-Nicolet National Forest, Great Divide Ranger District, totaling approximately 6,000 acres, known as ''Ghost Lake Cluster'', including 5 parcels known as ''Ghost Lake'', ''Perch Lake'', ''Lower Teal River'', ''Foo Lake'', and ''Bulldog Springs'', in Sawyer County.

(C) LAKE OWENS CLUSTER.—Certain land in the Chequamegon-Nicolet National Forest, Great Divide and Washburn Ranger Districts, totaling approximately 3,600 acres, known as ''Lake Owens Cluster'', comprised of parcels known as ''Lake Owens'', ''Eighteenmile Creek'', ''Northeast Lake'', and ''Sugarbush Lake'', in Bayfield County.

(D) MEDFORD CLUSTER.—Certain land in the Chequamegon-Nicolet National Forest, Medford-Park Falls Ranger District, totaling approximately 23,000 acres, known as the ''Medford Cluster'', comprised of 12 parcels known as ''County E Hardwoods'', ''Silver Creek/Mondeaux River Bottoms'', ''Lost Lake Esker'', ''North and South Fork Yellow Rivers'', ''Bear Creek'', ''Brush Creek'', ''Chequamegon Waters'', ''John's and Joseph Creeks'', ''Hay Creek Pine-Flatwoods'', ''558 Hardwoods'', ''Richter Lake'', and ''Lower Yellow River'', in Taylor County.

(E) PARK FALLS CLUSTER.—Certain land in the Chequamegon-Nicolet National Forest, Medford-Park Falls Ranger District, totaling approximately 23,000 acres, known as ''Park Falls Cluster'', comprised of 11 parcels known as ''Sixteen Lakes'', ''Chippewa Trail'', ''Tucker and Amik Lakes'', ''Lower Rice Creek'', ''Doering Tract'', ''Foulds Creek'', ''Bootjack Conifers'', ''Pond'', ''Mud and Riley Lake Peatlands'', ''Little Willow Drumlin'', and ''Elk River'', in Price County and Vilas County.

(F) PENOKEE MOUNTAIN CLUSTER.—Certain land in the Chequamegon-Nicolet National Forest, Great Divide Ranger District, totaling approximately 23,000 acres, known as ''Penokee Mountain Cluster'', comprised of—

(i) the Marengo River and Brunsweiler River semi-primitive nonmotorized areas; and

(ii) parcels known as ''St. Peters Dome'', ''Brunsweiler River Gorge'', ''Lake Three'', ''Hell Hole Creek'', and ''North Country Trail Hardwoods'', in Ashland County and Bayfield County.

(G) SOUTHEAST GREAT DIVIDE CLUSTER.—Certain land in the Chequamegon-Nicolet National Forest, Medford Park Falls Ranger District, totaling approximately 25,000 acres, known as the ''Southeast Great Divide Cluster'', comprised of parcels known as ''Snoose Lake'', ''Cub Lake'', ''Springbrook Hardwoods'', ''Upper Moose River'', ''East Fork Chippewa River'', ''Upper Torch River'', ''Venison Creek'', ''Upper Brunet River'', ''Bear Lake Slough'', and ''Noname Lake'', in Ashland County and Sawyer County.

(H) DIAMOND ROOF CLUSTER.—Certain land in the Chequamegon-Nicolet National Forest, Lakewood-Laona Ranger District, totaling approximately 6,000 acres, known as ''Diamond Roof Cluster'', comprised of 4 parcels known as ''McCaslin Creek'', ''Ada Lake'', ''Section 10 Lake'', and ''Diamond Roof'', in Forest County, Langlade County, and Oconto County.

(I) ARGONNE FOREST CLUSTER.—Certain land in the Chequamegon-Nicolet National Forest, Eagle River-Florence Ranger District, totaling approximately 12,000 acres, known as ''Argonne Forest Cluster'', comprised of parcels known as ''Argonne Experimental Forest'', ''Scott Creek'', ''Atkins Lake'', and ''Island Swamp'', in Forest County.

(J) BONITA GRADE.—Certain land in the Chequamegon-Nicolet National Forest, Lakewood-Laona Ranger District, totaling approximately 1,200 acres, known as ''Bonita Grade'', comprised of parcels known as ''Mountain Lakes'', ''Temple Lake'', ''Second South Branch'', ''First South Branch'', and ''South Branch Oconto River'', in Langlade County.

(K) FRANKLIN AND BUTTERNUT LAKES CLUSTER.—Certain land in the Chequamegon-Nicolet National Forest, Eagle River-Florence Ranger District, totaling approximately 12,000 acres, known as ''Franklin and Butternut Lakes Cluster'', comprised of 8 parcels known as ''Bose Lake Hemlocks'', ''Luna White Deer'', ''Echo Lake'', ''Franklin and Butternut Lakes'', ''Wolf Lake'', ''Upper Ninemile'', ''Meadow'', and ''Bailey Creeks'', in Forest County and Oneida County.

(L) LAUTERMAN LAKE AND KIEPER CREEK.—Certain land in the Chequamegon-Nicolet National Forest, Eagle River-Florence Ranger District, totaling approximately 2,500 acres, known as ''Lauterman Lake and Kieper Creek'', in Florence County.

(26) WYOMING: SAND CREEK AREA.—

(A) IN GENERAL.—Certain land in the Black Hills National Forest, totaling approximately 8,300 acres known as the ''Sand Creek area'', located in Crook County, in the far northwest corner of the Black Hills.

(B) BOUNDARY.—Beginning in the northwest corner and proceeding counterclockwise, the boundary for the Sand Creek Area roughly follows—

(i) forest Roads 863, 866, 866.1B;

(ii) a line linking forest roads 866.1B and 802.1B;

(iii) forest road 802.1B;

(iv) forest road 802.1;

(v) an unnamed road;

(vi) Spotted Tail Creek (excluding all private land);

(vii) forest road 829.1;

(viii) a line connecting forest roads 829.1 and 864;

(ix) forest road 852.1; and

(x) a line connecting forest roads 852.1 and 863.

(d) COMMITTEE OF SCIENTISTS.—

(1) ESTABLISHMENT.—The Secretaries concerned shall appoint a committee consisting of scientists who—

(A) are not officers or employees of the Federal Government;

(B) are not officers or employees of any entity engaged in whole or in part in the production of wood or wood products; and

(C) have not contracted with or represented any entity described in subparagraph (A) or (B) in a period beginning 5 years before the date on which the scientist is appointed to the committee.

(2) RECOMMENDATIONS FOR ADDITIONAL SPECIAL AREAS.—Not later than 2 years of the date of the enactment of this Act, the committee shall provide Congress with recommendations for additional special areas.

(3) CANDIDATE AREAS.—Candidate areas for recommendation as additional special areas shall have outstanding biological values that are exemplary on a local, regional, and national level, including the presence of—

(A) threatened or endangered species of plants or animals;

(B) rare or endangered ecosystems;

(C) key habitats necessary for the recovery of endangered or threatened species;

(D) recovery or restoration areas of rare or underrepresented forest ecosystems;

(E) migration corridors;

(F) areas of outstanding biodiversity;

(G) old growth forests;

(H) commercial fisheries; and

(I) sources of clean water such as key watersheds.

(4) GOVERNING PRINCIPLE.—The committee shall adhere to the principles of conservation biology in identifying special areas based on biological values.

SEC. 204. RESTRICTIONS ON MANAGEMENT ACTIVITIES IN ANCIENT FORESTS, ROADLESS AREAS, WATERSHED PROTECTION AREAS, AND SPECIAL AREAS.

(a) RESTRICTION OF MANAGEMENT ACTIVITIES IN ANCIENT FORESTS.—On Federal land located in Ancient forests—

(1) no roads shall be constructed or reconstructed;

(2) no extractive logging shall be permitted; and

(3) no improvements for the purpose of extractive logging shall be permitted.

(b) RESTRICTION OF MANAGEMENT ACTIVITIES IN ROADLESS AREAS.—On Federal land located in roadless areas (except military installations)—

(1) no roads shall be constructed or reconstructed;

(2) no extractive logging shall be permitted except of non-native invasive tree species, in which case the limitations on logging in title I shall apply; and

(3) no improvements for the purpose of extractive logging shall be permitted.

(c) RESTRICTION OF MANAGEMENT ACTIVITIES IN WATERSHED PROTECTION AREAS.—On Federal land located in watershed protection areas—

(1) no roads shall be constructed or reconstructed;

(2) no extractive logging shall be permitted except of non-native invasive tree species, in which case the limitations on logging in title I shall apply; and

(3) no improvements for the purpose of extractive logging shall be permitted.

(d) RESTRICTION OF MANAGEMENT ACTIVITIES IN SPECIAL AREAS.—On Federal land located in special areas—

(1) no roads shall be constructed or reconstructed;

(2) no extractive logging shall be permitted except of non-native invasive tree species, in which case the limitations on logging in title I shall apply; and

(3) no improvements for the purpose of extractive logging shall be permitted.

(e) MAINTENANCE OF EXISTING ROADS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the restrictions described in subsection (a) shall not prohibit the maintenance of an improved road, or any road accessing private inholdings.

(2) ABANDONED ROADS.—Any road that the Secretary determines to have been abandoned before the date of enactment of this Act shall not be maintained or reconstructed.

(f) ENFORCEMENT.—

(1) FINDING.—Congress finds that all people of the United States are injured by actions on land to which this section applies.

(2) PURPOSE.—The purpose of this subsection is to foster the widest possible enforcement of this section.

(3) FEDERAL ENFORCEMENT.—The Secretary and the Attorney General of the United States shall enforce this section against any person that violates this section.

(4) CITIZEN SUITS.—

(A) IN GENERAL.—A citizen harmed by a violation of this section may enforce this section by bringing a civil action for a declaratory judgment, a temporary restraining order, an injunction, statutory damages, or other remedy against any alleged violator, including the United States, in any district court of the United States.

(B) JUDICIAL RELIEF.—If a district court of the United States determines that a violation of this section has occurred, the district court—

(i) shall impose a damage award of not less than $5,000;

(ii) may issue 1 or more injunctions or other forms of equitable relief; and

(iii) shall award to each prevailing party the reasonable costs of bringing the action, including attorney's fees, witness fees, and other necessary expenses.

(C) STANDARD OF PROOF.—The standard of proof in all actions under this paragraph shall be the preponderance of the evidence.

(D) TRIAL.—A trial for any action under this section shall be de novo.

(E) PAYMENT OF DAMAGES.—

(i) NON-FEDERAL VIOLATOR.—A damage award under subparagraph (B)(i) shall be paid by a non-Federal violator or violators designated by the court to the Treasury.

(ii) FEDERAL VIOLATOR.—

(I) IN GENERAL.—Not later than 40 days after the date on which judgment is rendered, a damage award under subparagraph (B)(i) for which the United States is determined to be liable shall be paid from the Treasury, as provided under section 1304 of title 31, United States Code, to the person or persons designated to receive the damage award.

(II) USE OF DAMAGE AWARD.—A damage award described under subclause (I) shall be used by the recipient to protect or restore native biodiversity on Federal land or on land adjoining Federal land.

(III) COURT COSTS.—Any award of costs of litigation and any award of attorney fees shall be paid by a Federal violator not later than 40 days after the date on which judgment is rendered.

(5) WAIVER OF SOVEREIGN IMMUNITY.—

(A) IN GENERAL.—The United States (including agents and employees of the United States) waives its sovereign immunity in all respects in all actions under this section.

(B) NOTICE.—No notice is required to enforce this subsection.

TITLE III—EFFECTIVE DATE

SEC. 301. EFFECTIVE DATE.

This Act and the amendments made by this Act take effect on the date of enactment of this Act.

SEC. 302. EFFECT ON EXISTING CONTRACTS.

This Act and the amendments made by this Act shall not apply to any contract for the sale of timber that was entered into on or before the date of enactment of this Act.

SEC. 303. WILDERNESS ACT EXCLUSION.

This Act and the amendments made by this Act shall not apply to any Federal wilderness area designated under the Wilderness Act (16 U.S.C. 1131 et seq.).

TITLE IV—GIANT SEQUOIA NATIONAL MONUMENT

SEC. 401. FINDINGS.

Congress finds that—

(1) in accordance with the Act of June 8, 1906 (16 U.S.C. 431 et seq.), the Giant Sequoia National Monument was created by presidential proclamation on April 15, 2000;

(2) the Proclamation accurately states the following: ''The rich and varied landscape of the Giant Sequoia National Monument holds a diverse array of scientific and historic resources. Magnificent groves of towering giant sequoias, the world's largest trees, are interspersed within a great belt of coniferous forest, jeweled with mountain meadows. Bold granitic domes and spires, and plunging gorges, texture the landscape. The area's elevation climbs from about 2,500 to 9,700 feet over a distance of only a few miles, capturing an extraordinary number of habitats within a relatively small area. This spectrum of ecosystems is home to a diverse array of plants and animals, many of which are rare or endemic to the southern Sierra Nevada. The monument embraces limestone caverns and holds unique paleological resources documenting tens of thousands of years of ecosystem change. The monument also has many archaeological sites recording Native American occupation and adaptations to this complex landscape, and historic remnants of early Euroamerican settlement as well as the commercial exploitation of the giant sequoias. The monument provides exemplary opportunities for biologists, geologists, paleontologists, archaeologists, and historians to study these objects.'' ;

(3) the various ecosystems cited as the basis for establishment of the Monument—

(A) extend beyond the existing boundaries of the Monument; and

(B) encompass the fragile and extremely diverse southern Sierra Nevada bioregion and the overlapping Mohave ecosystem;

(4) to protect all the ecosystems and objects described in the Proclamation, the boundaries of the Monument must be extended to provide for watershed integrity, seasonal wildlife migrations, and other benefits;

(5) even though the primary reason for establishing the Monument was to rescue the area from the effects of road building and severe logging implemented by the Forest Service, the Proclamation left the Monument under the jurisdiction of the Chief of the Forest Service;

(6) the Proclamation provides the following: ''No portion of the Monument shall be considered to be suited for timber production, and no part of the Monument shall be used in a calculation or provision of a sustained yield of timber from the Sequoia National Forest.'';

(7) the Proclamation provided that ''[t]hese forests [in the Monument] need restoration to counteract the effects of a century of fire suppression and logging'';

(8) throughout the history of the Forest Service, the Forest Service has been focused on the logging of Federal land for the purpose of selling timber;

(9) because of this emphasis on logging and for other reasons, the National Park Service would be better able to manage the Monument than the Forest Service;

(10) the National Park Service manages 73 national monuments, many of which were originally under the jurisdiction of the Forest Service and were later transferred to the National Park System by an Act of Congress or by Executive Order;

(11) national monuments were managed by different Federal agencies, including the Department of Agriculture, until 1933, when President Franklin D. Roosevelt consolidated the management of national monuments in the National Park Service through Executive Order 6166 of June 10, 1933, and Executive Order 6228 of July 28, 1933;

(12) in most cases, national monuments established by presidential proclamation and assigned to the Forest Service or other Federal agencies have been ultimately transferred to the Secretary of the Interior, to be managed by the National Park Service;

(13) in a number of cases, Congress has eventually converted national monuments under the jurisdiction of the National Park Service into national parks;

(14) national monuments that were converted into national parks include the Grand Canyon National Park, Olympic National Park, and Death Valley National Park;

(15) Congress has converted large areas of national forests into some of the national parks and national monuments most cherished by the people of the United States;

(16) prominent examples of conversions in the region of the Monument are—

(A) Kings Canyon National Park, which was created out of the Sierra National Forest and Sequoia National Forest in 1940;

(B) the major eastward extension doubling the size of Sequoia National Park in 1926, with land for the addition being taken from the Sequoia National Forest; and

(C) the Mineral King addition to the Sequoia National Park in 1978, with land for the addition being taken from Sequoia National Forest;

(17) the Monument has more acres of sequoia groves than are contained in Sequoia, Kings Canyon, Yosemite, and Calaveras Big Tree, which are the only national parks and State parks in which sequoias occur;

(18) the largest tree in the world may still await discovery in some remote area of the Monument;

(19) to save the ecological integrity of the Monument, it is essential that the approximately 40,640 acres of land between the Western Divide (commonly known as the ''Greenhorn Mountains'') and the center line of the Kern River, south to the boundary line between Tulare and Kern counties, be included in the monument;

(20) Sequoia National Forest land, north of Sequoia National Park, should be added to the Sierra National Forest, which adjoins the Sierra National Forest on the north;

(21) for reasons of accessibility, economy, and general efficiency of operation, the remaining Sequoia National Forest territory south of Sequoia National Park belongs in the Inyo National Forest, which already shares the Golden Trout Wilderness with the Sequoia National Forest; and

(22) the overlapping jurisdiction with respect to the Sequoia National Forest territory results in needlessly wasteful management procedures.

SEC. 402. DEFINITIONS.

In this title:

(1) ADVISORY BOARD.—The term ''Advisory Board'' means the Giant Sequoia National Monument Advisory Board established under section 404(d)(1).

(2) MANAGEMENT PLAN.—The term ''management plan'' means the management plan for the Monument required by the Proclamation.

(3) MONUMENT.—The term ''Monument'' means the Giant Sequoia National Monument established by the Proclamation.

(4) PROCLAMATION.—The term ''Proclamation'' means the Presidential Proclamation number 7295, dated April 15, 2000 (65 Fed. Reg. 24095).

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Director of the National Park Service.

(6) SUPERINTENDENT.—The term ''Superintendent'' means the Superintendent of the Monument appointed under section 404(c).

SEC. 403. ADDITIONS TO GIANT SEQUOIA NATIONAL MONUMENT.

(a) IN GENERAL.—There is added to the Monument—

(1) the approximately 40,640 acres of land between the Western Divide (commonly known as the ''Greenhorn Mountains'') and the center line of the Kern River, south to the boundary line between Tulare and Kern counties; and

(2) the Jenny Lakes Wilderness.

(b) BOUNDARY REVISION.—The boundary of the Monument is revised to reflect the addition of the land to the Monument under subsection (a).

SEC. 404. TRANSFER OF ADMINISTRATIVE JURISDICTION OVER THE GIANT SEQUOIA NATIONAL MONUMENT.

(a) IN GENERAL.—Administrative jurisdiction over the Monument is transferred from the Secretary of Agriculture to the Secretary.

(b) APPLICABLE LAW.—The Monument shall be administered in accordance with the Proclamation, except that any deliberations of the Chief of the Forest Service with respect to management of the Monument shall be set aside.

(c) SUPERINTENDENT.—The Secretary shall appoint a Superintendent for the Monument to administer the Monument.

(d) ADVISORY BOARD.—

(1) IN GENERAL.—The Superintendent shall establish an advisory board, to be known as the ''Giant Sequoia National Monument Advisory Board'', comprised of 9 members, to be appointed by the Superintendent.

(2) PROHIBITION ON FEDERAL GOVERNMENT EMPLOYMENT.—Members of the Advisory Board shall not be employees of the Federal Government.

(3) TERMS.—

(A) IN GENERAL.—A member of the Advisory Board shall serve for a term of not more than 4 years.

(B) INTERVALS.—The Superintendent shall appoint members of the Advisory Board in a manner that allows the terms of the members to expire at staggered intervals.

(4) DUTIES.—The Advisory Board shall—

(A) assist in the preparation of the management plan; and

(B) provide recommendations with respect to the management of the Monument.

(5) PROCEDURES.—The Superintendent shall establish procedures and standards for the Advisory Board.

(6) OPEN MEETINGS.—Meetings of the Advisory Board shall be open to the public.

(e) HEADQUARTERS.—The headquarters for the Monument shall be located at the National Park Service facility at Three Rivers, California, which is the headquarters of Sequoia National Park and Kings Canyon National Park.

(f) VISITOR CENTERS.—Visitors centers for the Monument shall be located at—

(1) Grant Grove Visitor Center in Kings Canyon National Park;

(2) Springville, the principal entrance to the west side of the southern unit of the Monument; and

(3) Kernville.

SEC. 405. ADDITIONS TO THE SIERRA NATIONAL FOREST AND INYO NATIONAL FOREST.

(a) SIERRA NATIONAL FOREST.—

(1) IN GENERAL.—The portion of the Sequoia National Forest located north of Sequoia National Park that is not included in the Monument is added to the Sierra National Forest.

(2) BOUNDARY REVISION.—The boundary of the Sequoia National Forest is adjusted to include the land added by paragraph (1).

(b) INYO NATIONAL FOREST.—

(1) IN GENERAL.—The portion of the Sequoia National Forest south of Sequoia National Park that is not included in the Monument is added to the Inyo National Forest.

(2) BOUNDARY REVISION.—The boundary of the Inyo National Forest is adjusted to include the land added by paragraph (1).

SEC. 406. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out sections 404 and 405.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 280—SUPPORTING ''LIGHTS ON AFTERSCHOOL'', A NATIONAL CELEBRATION OF AFTER SCHOOL PROGRAMS

Mr. DODD (for himself, Mr. ENSIGN, Mr. AKAKA, Mrs. BOXER, Mr. BURNS, Mr. BURR, Ms. CANTWELL, Mr. CARPER, Mrs. CLINTON, Mr. COCHRAN, Ms. COLLINS, Mr. CORNYN, Mr. CORZINE, Mr. DAYTON, Mr. DURBIN, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. INOUYE, Mr. KERRY, Mr. KOHL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEVIN, Mr. LIEBERMAN, Ms. MIKULSKI, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Nebraska, Mr. REID, Mr. SALAZAR, Ms. SNOWE, Mr. SPECTER, and Ms. STABENOW) submitted the following resolution; which was considered and agreed to:

S. RES. 280

Whereas high quality after school programs provide safe, challenging, engaging, and fun learning experiences to help children and youth develop their social, emotional, physical, cultural, and academic skills;

Whereas high quality after school programs support working families by ensuring that the children in such families are safe and productive after the regular school day ends;

Whereas high quality after school programs build stronger communities by involving the Nation's students, parents, business leaders, and adult volunteers in the lives of the Nation's youth, thereby promoting positive relationships among children, youth, families, and adults;

Whereas high quality after school programs engage families, schools, and diverse community partners in advancing the well-being of the Nation's children;

Whereas ''Lights On Afterschool!'', a national celebration of after school programs held on October 20, 2005, promotes the critical importance of high quality after school programs in the lives of children, their families, and their communities;

Whereas more than 28,000,000 children in the United States have parents who work outside the home and 14,300,000 children in the United States have no place to go after school; and

Whereas many after school programs across the United States are struggling to keep their doors open and their lights on: Now, therefore, be it

Resolved, That the Senate supports the goals and ideals of ''Lights On Afterschool!'' a national celebration of after school programs.

SENATE RESOLUTION 281—HONORING AND THANKING JAMES PATRICK ROHAN

Mr. FRIST (for himself and Mr. REID) submitted the following resolution; which was considered and agreed to:

S. RES. 281

Whereas Assistant Chief of Police James Patrick Rohan, a native of the State of Maryland, has served the United States Capitol Police for thirty (30) years with distinction having been appointed as a Private on December 8, 1975;

Whereas Assistant Chief Rohan, haven risen through the ranks to his current position over his longstanding career, has been instrumental in a variety of initiatives designed to enhance the security of the Congress;

Whereas Assistant Chief Rohan, who holds a Master of Science Degree in Justice/Law Enforcement from the American University and a Bachelor of Arts Degree in Law Enforcement from the University of Maryland, as well as numerous specialized law enforcement and security training accomplishments and honors: Now, therefore, be it

Resolved, That the Senate hereby honors and thanks James Patrick Rohan and his wife, Cecilia, and children, Ben, Natalie, Eric and David, and his entire family, for a lifelong professional commitment of service to the United States Capitol Police and the United States Congress.

SENATE CONCURRENT RESOLUTION 59—RECOGNIZING THE 40TH ANNIVERSARY OF THE WHITE HOUSE FELLOWS PROGRAM

Mr. BROWNBACK submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

Whereas in 1964, John D. Gardner presented the idea of selecting a handful of outstanding men and women to come to Washington to participate as Fellows and learn the workings of the highest levels of the Federal Government to learn about leadership as they observed the Nation's officials in action and met with these officials and other leaders of society, thereby strengthening the Fellows' abilities and desires to contribute to their communities, their professions, and their country;

Whereas President Lyndon B. Johnson established the President's Commission on White House Fellowships, through Executive Order 11183, to create a program that would select between 11 and 19 outstanding young Americans every year and bring them to Washington for ''first hand, high-level experience in the workings of the Federal Government, to establish an era when the young men and women of America and their government belonged to each other—belonged to each other in fact and in spirit'';

Whereas the White House Fellows Program has steadfastly remained a nonpartisan program that has served 8 Presidents exceptionally well;

Whereas the nearly 600 White House Fellows that have served, have established a legacy of leadership in every aspect of American society that includes appointments as Cabinet officials and senior White House staff, election to the House of Representatives, Senate, and State and local Government, appointments to the Federal, State, and local judiciary, appointments as United States Attorneys, leadership in many of the Nation's largest corporations and law firms, service as presidents of colleges and universities, deans of our most distinguished graduate schools, officials in nonprofit organizations, distinguished scholars and historians, and service as senior leaders in every branch of the United States Armed Forces;

Whereas this legacy of leadership is a national resource that has been used by the Nation in major challenges including organizing resettlement operations following the Vietnam War, assisting with the national response to terrorist attacks, managing the aftermath of natural disasters such as Hurricanes Katrina and Rita, and reforming and innovating in national and international securities and capital markets;

Whereas the nearly 600 White House Fellows have characterized their post-Fellowship years with a lifetime commitment to public service through continuing personal and professional renewal and association, creating a Fellows community of mutual support for leadership at every level of government and in every element of our national life; and

Whereas September 1, 2005, marked the 40th anniversary of the first class of White House Fellows to serve this Nation: Now, therefore, be it

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

(1) recognizes the 40th anniversary of the White House Fellows program and commends the White House Fellows for their continuing lifetime commitment to public service;

(2) acknowledges the legacy of leadership provided by White House Fellows over the years in their local communities, the Nation, and the world; and

(3) expresses appreciation and support for the continuing leadership of White House Fellows in all aspects of our national life in the years ahead.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2112. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table.

SA 2113. Mr. BOND (for himself, Mr. DORGAN, Mr. NELSON, of Florida, Mr. CORZINE, and Mr. TALENT) proposed an amendment to the bill H.R. 3058, supra.

SA 2114. Mrs. BOXER (for herself and Mr. SCHUMER) submitted an amendment intended to be proposed by her to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2115. Mr. ENZI proposed an amendment to the bill H.R. 3058, supra.

SA 2116. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2117. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2118. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2119. Mr. ENSIGN (for himself and Mr. REID) submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2120. Mr. VOINOVICH (for himself and Mr. DEWINE) submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2121. Mr. SCHUMER (for himself and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2122. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2123. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra.

SA 2124. Mr. SCHUMER (for himself, Ms. SNOWE, Mrs. CLINTON, Mr. JEFFORDS, and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2125. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2126. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2127. Mr. FRIST (for himself, Mrs. DOLE, Ms. STABENOW, and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2128. Mr. FRIST (for himself, Mrs. DOLE, Ms. STABENOW, and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2129. Mr. WARNER submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2130. Mr. WARNER submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2131. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2132. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2133. Mr. DORGAN (for himself, Mr. CRAIG, Mr. ENZI, and Mr. BAUCUS) proposed an amendment to the bill H.R. 3058, supra.

SA 2134. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2135. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2136. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2137. Mr. COLEMAN (for himself, Mr. LEVIN, and Mr. AKAKA) submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2138. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2139. Mr. BOND (for Mrs. BOXER) proposed an amendment to the bill H.R. 3058, supra.

SA 2140. Mr. BOND (for Ms. STABENOW) submitted an amendment intended to be proposed by Mr. BOND to the bill H.R. 3058, supra.

SA 2141. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill H.R. 3058, supra.

SA 2142. Mr. MCCONNELL (for Mr. ENZI) proposed an amendment to the bill H.R. 3204, to amend title XXVII of the Public Health Service Act to extend Federal funding for the establishment and operation of State high risk health insurance pools.

SA 2143. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table.

SA 2144. Mr. CORZINE submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2145. Mr. LAUTENBERG (for himself and Mr. LOTT) submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2146. Mr. ENSIGN (for himself, Mr. ALLEN, and Mr. DEMINT) submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2147. Mr. DEWINE submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

SA 2148. Mr. PRYOR submitted an amendment intended to be proposed by him to the bill H.R. 3058, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2112. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 276, after line 24, insert the following:

SEC. 1____.(a) Item number 14 of the table contained in section 1302 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109–59; 119 Stat. 1144) is amended—

(1) by striking ''AK'' and inserting ''LA''; and

(2) by striking ''Planning, design, and construction of Knik Arm Bridge'' and inserting ''Reconstruction of Twin Spans Bridge connecting New Orleans and Slidell, Louisiana''.

(b) The table contained in section 1702 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109–59; 119 Stat. 1144) is amended—

(1) in item number 2465—

(A) by striking ''AK'' and inserting ''LA''; and

(B) by striking ''Planning, design, and construction of Knik Arm Bridge'' and inserting ''Reconstruction of Twin Spans Bridge connecting New Orleans and Slidell, Louisiana''; and

(2) in item number 3677—

(A) by striking ''AK'' and inserting ''LA''; and

(B) by striking ''Planning, design, and construction of Knik Arm Bridge'' and inserting ''Reconstruction of Twin Spans Bridge connecting New Orleans and Slidell, Louisiana''.

(c) Item number 2 of the table contained in section 1934 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109–59; 119 Stat. 1144) is amended—

(1) by striking ''AK'' and inserting ''LA''; and

(2) by striking ''Improvements to the Knik Arm Bridge'' and inserting ''Reconstruction of Twin Spans Bridge connecting New Orleans and Slidell, Louisiana''.

(d) Sections 1949 and 4411 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109–59; 119 Stat. 1144) are repealed.

(e) Nothing in this section or an amendment made by this section affects the allocation of funds to any State other than the States of Alaska and Louisiana.

SA 2113. Mr. BOND (for himself, Mr. DORGAN, Mr. NELSON of Florida, Mr. CORZINE, and Mr. TALENT) proposed an amendment to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; as follows:

Insert the following on page 348, after line 5, and renumber accordingly:

''SEC. 321. No funds in this Act may be used to support any federal, state, or local projects that seek to use the power of eminent domain, unless eminent domain is employed only for a public use: Provided, That for purposes of this section, public use shall not be construed to include economic development that primarily benefits private entities: Provided further, That any use of funds for mass transit, railroad, airport, seaport or highway projects as well as utility projects which benefit or serve the general public (including energy-related, communication-related, water-related and wastewater-related infrastructure), other sructures designated for use by the general public or which have other common-carrier or public-utility functions that serve the general public and are subject to regulation and oversight by the government, and projects for the removal of blight (including areas identified by units of local government for recovery from natural disasters) or brownsfields as defined in the Small Business Liability Relief and Brownsfields Revitalization Act (Pub. Law 107–118) shall be considered a public use for purposes of eminent domain: Provided further, That the Government Accountability Office, in consultation with the National Academy for Public Administration, organizations representing state and local governments, and property rights organizations, shall conduct a study to be submitted to the Congress within 12 months of the enactment of this Act on the nationwide use of eminent

domain, including the procedures used and the results accomplished on a state-by-state basis as well as the impact on individual property owners and on the affected communities.''

SA 2114. Mrs. BOXER (for herself and Mr. SCHUMER) submitted an amendment intended to be proposed by her to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 310, line 16, insert '', and of which $4,500,000 shall be for capacity building activities administered by Habitat for Humanity International'' after ''tribal areas''.

SA 2115. Mr. ENZI proposed an amendment to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; as follows:

At the appropriate place add the following:

____—ASSISTANCE FOR WORKERS AND SMALL BUSINESSES

Subtitle A—Minimum Wage Adjustment

SEC. ____01. MINIMUM WAGE.

(a) IN GENERAL.—Section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

''(1) except as otherwise provided in this section, not less than—

''(A) $5.70 an hour, beginning 6 months after the date of enactment of the Transportation, Treasury, the Judiciary, Housing and Urban Development, and Related Agencies Appropriations Act, 2006; and

''(B) $6.25 an hour, beginning 18 months after such date of enactment;''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 6 months after the date of enactment of the Transportation, Treasury, the Judiciary, Housing and Urban Development, and Related Agencies Appropriations Act, 2006.

Subtitle B—Workplace Flexibility

SEC. ____11. SHORT TITLE.

This subtitle may be cited as the ''Workplace Flexibility Act''.

SEC. ____12. BIWEEKLY WORK PROGRAMS.

(a) IN GENERAL.—The Fair Labor Standards Act of 1938 is amended by inserting after section 13 (29 U.S.C. 213) the following:

''SEC. 13A. BIWEEKLY WORK PROGRAMS.

''(a) VOLUNTARY PARTICIPATION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), no employee may be required to participate in a program described in this section. Participation in a program described in this section may not be a condition of employment.

''(2) COLLECTIVE BARGAINING AGREEMENT.—In a case in which a valid collective bargaining agreement exists between an employer and the labor organization that has been certified or recognized as the representative of the employees of the employer under applicable law, an employee may only be required to participate in such a program in accordance with the agreement.

''(b) BIWEEKLY WORK PROGRAMS.—

''(1) IN GENERAL.—Notwithstanding section 7, an employer may establish biweekly work programs that allow the use of a biweekly work schedule—

''(A) that consists of a basic work requirement of not more than 80 hours, over a 2-week period; and

''(B) in which more than 40 hours of the work requirement may occur in a week of the period, except that no more than 10 hours may be shifted between the 2 weeks involved.

''(2) CONDITIONS.—An employer may carry out a biweekly work program described in paragraph (1) for employees only pursuant to the following:

''(A) AGREEMENT.—The program may be carried out only in accordance with—

''(i) applicable provisions of a collective bargaining agreement between the employer and the labor organization that has been certified or recognized as the representative of the employees under applicable law; or

''(ii) in the case of an employee who is not represented by a labor organization described in clause (i), a written agreement arrived at between the employer and employee before the performance of the work involved if the agreement was entered into knowingly and voluntarily by such employee and was not a condition of employment.

''(B) STATEMENT.—The program shall apply to an employee described in subparagraph (A)(ii) if such employee has affirmed, in a written statement that is made, kept, and preserved in accordance with section 11(c), that the employee has chosen to participate in the program.

''(C) MINIMUM SERVICE.—No employee may participate, or agree to participate, in the program unless the employee has been employed for at least 12 months by the employer, and for at least 1,250 hours of service with the employer during the previous 12-month period.

''(3) COMPENSATION FOR HOURS IN SCHEDULE.—Notwithstanding section 7, in the case of an employee participating in such a biweekly work program, the employee shall be compensated for each hour in such a biweekly work schedule at a rate not less than the regular rate at which the employee is employed.

''(4) COMPUTATION OF OVERTIME.—All hours worked by the employee in excess of such a biweekly work schedule or in excess of 80 hours in the 2-week period, that are requested in advance by the employer, shall be overtime hours.

''(5) OVERTIME COMPENSATION PROVISION.—The employee shall be compensated for each such overtime hour at a rate not less than one and one-half times the regular rate at which the employee is employed, in accordance with section 7(a)(1), or receive compensatory time off in accordance with section 7(r) for each such overtime hour.

''(6) DISCONTINUANCE OF PROGRAM OR WITHDRAWAL.—

''(A) DISCONTINUANCE OF PROGRAM.—An employer that has established a biweekly work program under paragraph (1) may discontinue the program for employees described in paragraph (2)(A)(ii) after providing 30 days' written notice to the employees who are subject to an agreement described in paragraph (2)(A)(ii).

''(B) WITHDRAWAL.—An employee may withdraw an agreement described in paragraph (2)(A)(ii) at the end of any 2-week period described in paragraph (1)(A), by submitting a written notice of withdrawal to the employer of the employee.

''(c) PROHIBITION OF COERCION.—

''(1) IN GENERAL.—An employer shall not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any employee for the purpose of interfering with the rights of the employee under this section to elect or not to elect to work a biweekly work schedule.

''(2) DEFINITION.—In paragraph (1), the term 'intimidate, threaten, or coerce' includes promising to confer or conferring any benefit (such as appointment, promotion, or compensation) or effecting or threatening to effect any reprisal (such as deprivation of appointment, promotion, or compensation).

''(d) DEFINITIONS.—In this section:

''(1) BASIC WORK REQUIREMENT.—The term 'basic work requirement' means the number of hours, excluding overtime hours, that an employee is required to work or is required to account for by leave or otherwise.

''(2) COLLECTIVE BARGAINING.—The term 'collective bargaining' means the performance of the mutual obligation of the representative of an employer and the labor organization that has been certified or recognized as the representative of the employees of the employer under applicable law to meet at reasonable times and to consult and bargain in a good-faith effort to reach agreement with respect to the conditions of employment affecting such employees and to execute, if requested by either party, a written document incorporating any collective bargaining agreement reached, but the obligation referred to in this paragraph shall not compel either party to agree to a proposal or to make a concession.

''(3) COLLECTIVE BARGAINING AGREEMENT.—The term 'collective bargaining agreement' means an agreement entered into as a result of collective bargaining.

''(4) ELECTION.—The term 'at the election of', used with respect to an employee, means at the initiative of, and at the request of, the employee.

''(5) EMPLOYEE.—The term 'employee' means an individual—

''(A) who is an employee (as defined in section 3);

''(B) who is not an employee of a public agency; and

''(C) to whom section 7(a) applies.

''(6) EMPLOYER.—The term 'employer' does not include a public agency.

''(7) OVERTIME HOURS.—The term 'overtime hours' when used with respect to biweekly work programs under subsection (b), means all hours worked in excess of the biweekly work schedule involved or in excess of 80 hours in the 2-week period involved, that are requested in advance by an employer.

''(8) REGULAR RATE.—The term 'regular rate' has the meaning given the term in section 7(e).''.

(b) REMEDIES.—

(1) PROHIBITIONS.—Section 15(a)(3) of the Fair Labor Standards Act of 1938 (29 U.S.C. 215(a)(3)) is amended—

(A) by inserting ''(A)'' after ''(3)'';

(B) by adding ''or'' after the semicolon; and

(C) by adding at the end the following:

''(B) to violate any of the provisions of section 13A;''.

(2) REMEDIES AND SANCTIONS.—Section 16 of the Fair Labor Standards Act of 1938 (29 U.S.C. 216) is amended—

(A) in subsection (c)—

(i) in the first sentence—

(I) by inserting after ''7 of this Act'' the following: '', or of the appropriate legal or monetary equitable relief owing to any employee or employees under section 13A''; and

(II) by striking ''wages or unpaid overtime compensation and'' and inserting ''wages, unpaid overtime compensation, or legal or monetary equitable relief, as appropriate, and'';

(ii) in the second sentence, by striking ''wages or overtime compensation and'' and inserting ''wages, unpaid overtime compensation, or legal or monetary equitable relief, as appropriate, and''; and

(iii) in the third sentence—

(I) by inserting after ''first sentence of such subsection'' the following: '', or the second sentence of such subsection in the event of a violation of section 13A,''; and

(II) by striking ''wages or unpaid overtime compensation under sections 6 and 7 or'' and inserting ''wages, unpaid overtime compensation, or legal or monetary equitable relief, as appropriate, or''; and

(B) in subsection (e)—

(i) in the second sentence, by striking ''section 6 or 7'' and inserting ''section 6, 7, or 13A''; and

(ii) in the fourth sentence, in paragraph (3), by striking ''15(a)(4) or'' and inserting ''15(a)(4), a violation of section 15(a)(3)(B), or''.

(c) NOTICE TO EMPLOYEES.—Not later than 30 days after the date of enactment of this Act, the Secretary of Labor shall revise the materials the Secretary provides, under regulations contained in section 516.4 of title 29, Code of Federal Regulations, to employers for purposes of a notice explaining the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) to employees so that the notice reflects the amendments made to the Act by this section.

SEC. ___13. CONGRESSIONAL COVERAGE.

Section 203 of the Congressional Accountability Act of 1995 (2 U.S.C. 1313) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''and section 12(c)'' and inserting ''section 12(c), and section 13A''; and

(B) by striking paragraph (3);

(2) in subsection (b)—

(A) by striking ''The remedy'' and inserting the following:

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the remedy''; and

(B) by adding at the end the following:

''(2) BIWEEKLY WORK PROGRAMS AND FLEXIBLE CREDIT HOURS PROGRAMS.—The remedy for a violation of subsection (a) relating to the requirements of section 13A of the Fair Labor Standards Act of 1938 shall be such remedy as would be appropriate if awarded under sections 16 and 17 of such Act (29 U.S.C. 216, 217) for such a violation.''; and

(3) in subsection (c), by striking paragraph (4).

SEC. ___14. TERMINATION.

The authority provided by this subtitle and the amendments made by this subtitle terminates 5 years after the date of enactment of this Act.

Subtitle C—Small Business Fair Labor Standards Act Exemption

SEC. ___21. ENHANCED SMALL BUSINESS EXEMPTION.

(a) IN GENERAL.—Section 3(s)(1)(A)(ii) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(s)(1)(A)(ii)) is amended by striking ''$500,000'' and inserting ''$1,000,000''.

(b) EFFECT OF AMENDMENT.—The amendment made by subsection (a) shall not apply in any State that does not have in effect, or that does not subsequently enact after the date of enactment of the Transportation, Treasury, the Judiciary, Housing and Urban Development, and Related Agencies Appropriations Act, 2006, legislation applying minimum wage and hours of work protections to workers covered by the Fair Labor Standards Act of 1938 as of the day before the date of enactment of the Transportation, Treasury, the Judiciary, Housing and Urban Development, and Related Agencies Appropriations Act, 2006.

SEC. ___22. SCOPE OF EMPLOYMENT.

Section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)), in the matter preceding paragraph (1), and section 7(a)(1) of such Act (29 U.S.C. 207(a)(1)), are amended by striking ''who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce,'' and inserting ''who in any workweek is engaged in industrial homework subject to section 11(d) and engaged in commerce or in the production of goods for commerce, or who in any workweek is employed in an enterprise engaged in commerce or in the production of goods for commerce,''.

Subtitle D—Small Business Paperwork Reduction

SEC. ___31. SMALL BUSINESS PAPERWORK REDUCTION.

(a) IN GENERAL.—Section 3506 of title 44, United States Code (commonly referred to as the ''Paperwork Reduction Act''), is amended by adding at the end the following:

''(j)(1) In the case of a first-time violation by a small business concern of a requirement regarding the collection of information by an agency, the head of such agency shall provide that no civil fine shall be imposed on the small business concern unless, based on the particular facts and circumstances regarding the violation—

''(A) the head of the agency determines that the violation has the potential to cause serious harm to the public interest;

''(B) the head of the agency determines that failure to impose a civil fine would impede or interfere with the detection of criminal activity;

''(C) the violation is a violation of an internal revenue law or a law concerning the assessment or collection of any tax, debt, revenue, or receipt;

''(D) the violation is not corrected on or before the date that is 6 months after the date of receipt by the small business concern of notification of the violation in writing from the agency; or

''(E) except as provided in paragraph (2), the head of the agency determines that the violation presents a danger to the public health or safety.

''(2)(A) In any case in which the head of an agency determines under paragraph (1)(E) that a violation presents a danger to the public health or safety, the head of the agency may, notwithstanding paragraph (1)(E), determine that a civil fine should not be imposed on the small business concern if the violation is corrected within 24 hours of receipt of notice in writing by the small business concern of the violation.

''(B) In determining whether to provide a small business concern with 24 hours to correct a violation under subparagraph (A), the head of the agency shall take into account all of the facts and circumstances regarding the violation, including—

''(i) the nature and seriousness of the violation, including whether the violation is technical or inadvertent or involves willful or criminal conduct;

''(ii) whether the small business concern has made a good faith effort to comply with applicable laws, and to remedy the violation within the shortest practicable period of time; and

''(iii) whether the small business concern has obtained a significant economic benefit from the violation.

''(C) In any case in which the head of the agency imposes a civil fine on a small business concern for a violation with respect to which this paragraph applies and does not provide the small business concern with 24 hours to correct the violation, the head of the agency shall notify Congress regarding such determination not later than 60 days after the date that the civil fine is imposed by the agency.

''(3) With respect to any agency, this subsection shall not apply to any violation by a small business concern of a requirement regarding collection of information by such agency if such small business concern previously violated any requirement regarding collection of information by such agency.

''(4) In determining if a violation is a first-time violation for purposes of this subsection, the head of an agency shall not take into account any violation of a requirement regarding collection of information by another agency.

''(5) Notwithstanding any other provision of law, no State may impose a civil penalty on a small business concern, in the case of a first-time violation by the small-business concern of a requirement regarding collection of information under Federal law, in a manner inconsistent with the provisions of this subsection.

''(6) For purposes of this subsection, the term 'small business concern' means a business concern that meets the requirements of section 3(a) of the Small Business Act (15 U.S.C. 632(a)) and the regulations promulgated pursuant to such section.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any violation occurring on or after January 1, 2006.

Subtitle E—Small Business Regulatory Relief

SEC. ___41. ENHANCED COMPLIANCE ASSISTANCE FOR SMALL BUSINESSES.

(a) IN GENERAL.—Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note) is amended by striking subsection (a) and inserting the following:

''(a) COMPLIANCE GUIDE.—

''(1) IN GENERAL.—For each rule for which an agency head does not make a certification under section 605(b) of title 5, United States Code, the agency shall publish 1 or more guides to assist small entities in complying with the rule, and shall entitle such publications 'small entity compliance guides'.

''(2) PUBLICATION OF GUIDES.—The publication of each guide under this subsection shall include—

''(A) the posting of the guide in an easily identified location on the website of the agency; and

''(B) distribution of the guide to known industry contacts, such as small entities, associations, or industry leaders affected by the rule.

''(3) PUBLICATION DATE.—An agency shall publish each guide (including the posting and distribution of the guide as described under paragraph (2))—

''(A) on the same date as the date of publication of the final rule (or as soon as possible after that date); and

''(B) not later than the date on which the requirements of that rule become effective.

''(4) COMPLIANCE ACTIONS.—

''(A) IN GENERAL.—Each guide shall explain the actions a small entity is required to take to comply with a rule.

''(B) EXPLANATION.—The explanation under subparagraph (A)—

''(i) shall include a description of actions needed to meet requirements to enable a small entity to know when such requirements are met; and

''(ii) if determined appropriate by the agency, may include a description of possible procedures, such as conducting tests, that assist a small entity in meeting such requirements.

''(C) PROCEDURES.—Procedures described under subparagraph (B)(ii)—

''(i) shall be suggestions to assist small entities; and

''(ii) shall not be additional requirements relating to the rule.

''(5) AGENCY PREPARATION OF GUIDES.—The agency shall, in its sole discretion, taking into account the subject matter of the rule

and the language of relevant statutes, ensure that the guide is written using sufficiently plain language likely to be understood by affected small entities. Agencies may prepare separate guides covering groups or classes of similarly affected small entities, and may cooperate with associations of small entities to develop and distribute such guides. An agency may prepare guides and apply this section with respect to a rule or a group of related rules.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 211(3) of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note) is amended by inserting ''and entitled'' after ''designated''.

Subtitle F—Minimum Wage Tip Credit

SEC. ___51. TIPPED WAGE FAIRNESS.

Section 3(m) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(m)) is amended—

(1) in paragraph (2), by inserting before the period the following: '': *Provided*, That the tips shall not be included as part of the wage paid to an employee to the extent they are excluded therefrom under the terms of a bona fide collective bargaining agreement applicable to the particular employee''; and

(2) adding at the end the following: ''Notwithstanding any other provision of this Act, any State or political subdivision of a State which, on and after the date of enactment of the Transportation, Treasury, the Judiciary, Housing and Urban Development, and Related Agencies Appropriations Act, 2006, excludes all of a tipped employee's tips from being considered as wages in determining if such tipped employee has been paid the applicable minimum wage rate, may not establish or enforce the minimum wage rate provisions of such law, ordinance, regulation, or order in such State or political subdivision thereof with respect to tipped employees unless such law, ordinance, regulation, or order is revised or amended to permit a tip credit in an amount not less than an amount equal to—

''(A) the cash wage paid such employee which is required under such law, ordinance, regulation, or order on the date of enactment of such Act; and

''(B) an additional amount on account of tips received by such employee which amount is equal to the difference between such cash wage and the minimum wage rate in effect under such law, ordinance, regulation, or order or the minimum wage rate in effect under section 6, whichever is higher.''.

Subtitle G—Small Business Tax Relief

SEC. ___60. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

CHAPTER 1—PROVISIONS RELATING TO ECONOMIC STIMULUS FOR SMALL BUSINESSES

SEC. ___61. EXTENSION OF INCREASED EXPENSING FOR SMALL BUSINESS.

(a) IN GENERAL.—Section 179 (relating to election to expense certain depreciable business assets) is amended by striking ''2008'' each place it appears and inserting ''2009''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. ___62. CLARIFICATION OF CASH ACCOUNTING RULES FOR SMALL BUSINESS.

(a) CASH ACCOUNTING PERMITTED.—Section 446 (relating to general rule for methods of accounting) is amended by adding at the end the following new subsection:

''(g) CERTAIN SMALL BUSINESS TAXPAYERS PERMITTED TO USE CASH ACCOUNTING METHOD WITHOUT LIMITATION.—

''(1) IN GENERAL.—An eligible taxpayer shall not be required to use an accrual method of accounting for any taxable year.

''(2) ELIGIBLE TAXPAYER.—For purposes of this subsection—

''(A) IN GENERAL.—A taxpayer is an eligible taxpayer with respect to any taxable year if—

''(i) for all prior taxable years beginning after December 31, 2004, the taxpayer (or any predecessor) met the gross receipts test of subparagraph (B), and

''(ii) the taxpayer is not subject to section 447 or 448.

''(B) GROSS RECEIPTS TEST.—A taxpayer meets the gross receipts test of this subparagraph for any prior taxable year if the average annual gross receipts of the taxpayer for the 3-taxable-year period ending with such prior taxable year does not exceed $10,000,000. The rules of paragraphs (2) and (3) of section 448(c) shall apply for purposes of the preceding sentence.

''(C) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2006, the dollar amount contained in subparagraph (B) 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 in which the taxable year begins, by substituting 'calendar year 2005' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under this subparagraph is not a multiple of $100,000, such amount shall be rounded to the nearest multiple of $100,000.''.

(b) CLARIFICATION OF INVENTORY RULES FOR SMALL BUSINESS.—Section 471 (relating to general rule for inventories) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

''(c) SMALL BUSINESS TAXPAYERS NOT REQUIRED TO USE INVENTORIES.—

''(1) IN GENERAL.—An eligible taxpayer shall not be required to use inventories under this section for a taxable year.

''(2) TREATMENT OF TAXPAYERS NOT USING INVENTORIES.—If an eligible taxpayer does not use inventories with respect to any property for any taxable year beginning after December 31, 2004, such property shall be treated as a material or supply which is not incidental.

''(3) ELIGIBLE TAXPAYER.—For purposes of this subsection, the term 'eligible taxpayer' has the meaning given such term by section 446(g)(2).''.

(c) EFFECTIVE DATE AND SPECIAL RULES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer changing the taxpayer's method of accounting for any taxable year under the amendments made by this section—

(A) such change shall be treated as initiated by the taxpayer;

(B) such change shall be treated as made with the consent of the Secretary of the Treasury; and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account over a period (not greater than 4 taxable years) beginning with such taxable year.

SEC. ___63. RECOVERY PERIOD FOR DEPRECIATION OF RESTAURANT BUILDINGS.

(a) 15-YEAR RECOVERY PERIOD.—Subparagraph (E) of section 168(e)(3) (relating to 15-year property) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following new clause:

''(iv) any section 1250 property which is a retail restaurant facility.''.

(b) RETAIL RESTAURANT FACILITY.—Subsection (e) of section 168 is amended by adding at the end the following new paragraph:

''(6) RETAIL RESTAURANT FACILITY.—The term 'retail restaurant facility' means any building if more than 50 percent of the building's square footage is devoted to preparation of, and seating for on-premises consumption of, prepared meals.''.

(c) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) is amended by inserting after the item relating to subparagraph (E)(iii) the following new item:

''(E)(iv) ..... 39''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to retail restaurant buildings placed in service, and to all improvements made, after September 30, 2004, and before October 1, 2009.

CHAPTER 2—REVENUE PROVISIONS

SEC. ___71. FRIVOLOUS TAX SUBMISSIONS.

(a) CIVIL PENALTIES.—Section 6702 is amended to read as follows:

''SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.

''(a) CIVIL PENALTY FOR FRIVOLOUS TAX RETURNS.—A person shall pay a penalty of $5,000 if—

''(1) such person files what purports to be a return of a tax imposed by this title but which—

''(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

''(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

''(2) the conduct referred to in paragraph (1)—

''(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

''(B) reflects a desire to delay or impede the administration of Federal tax laws.

''(b) CIVIL PENALTY FOR SPECIFIED FRIVOLOUS SUBMISSIONS.—

''(1) IMPOSITION OF PENALTY.—Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of $5,000.

''(2) SPECIFIED FRIVOLOUS SUBMISSION.—For purposes of this section—

''(A) SPECIFIED FRIVOLOUS SUBMISSION.—The term 'specified frivolous submission' means a specified submission if any portion of such submission—

''(i) is based on a position which the Secretary has identified as frivolous under subsection (c), or

''(ii) reflects a desire to delay or impede the administration of Federal tax laws.

''(B) SPECIFIED SUBMISSION.—The term 'specified submission' means—

''(i) a request for a hearing under—

''(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

''(II) section 6330 (relating to notice and opportunity for hearing before levy), and

''(ii) an application under—

''(I) section 6159 (relating to agreements for payment of tax liability in installments),

''(II) section 7122 (relating to compromises), or

''(III) section 7811 (relating to taxpayer assistance orders).

''(3) OPPORTUNITY TO WITHDRAW SUBMISSION.—If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission within 30 days after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.

''(c) LISTING OF FRIVOLOUS POSITIONS.—The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).

''(d) REDUCTION OF PENALTY.—The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

''(e) PENALTIES IN ADDITION TO OTHER PENALTIES.—The penalties imposed by this section shall be in addition to any other penalty provided by law.''.

(b) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS BEFORE LEVY.—

(1) FRIVOLOUS REQUESTS DISREGARDED.—Section 6330 (relating to notice and opportunity for hearing before levy) is amended by adding at the end the following new subsection:

''(g) FRIVOLOUS REQUESTS FOR HEARING, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of a request for a hearing under this section or section 6320 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.''.

(2) PRECLUSION FROM RAISING FRIVOLOUS ISSUES AT HEARING.—Section 6330(c)(4) is amended—

(A) by striking ''(A)'' and inserting ''(A)(i)'';

(B) by striking ''(B)'' and inserting ''(ii)'';

(C) by striking the period at the end of the first sentence and inserting ''; or''; and

(D) by inserting after subparagraph (A)(ii) (as so redesignated) the following:

''(B) the issue meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A).''.

(3) STATEMENT OF GROUNDS.—Section 6330(b)(1) is amended by striking ''under subsection (a)(3)(B)'' and inserting ''in writing under subsection (a)(3)(B) and states the grounds for the requested hearing''.

(c) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS UPON FILING OF NOTICE OF LIEN.—Section 6320 is amended—

(1) in subsection (b)(1), by striking ''under subsection (a)(3)(B)'' and inserting ''in writing under subsection (a)(3)(B) and states the grounds for the requested hearing'', and

(2) in subsection (c), by striking ''and (e)'' and inserting ''(e), and (g)''.

(d) TREATMENT OF FRIVOLOUS APPLICATIONS FOR OFFERS-IN-COMPROMISE AND INSTALLMENT AGREEMENTS.—Section 7122 is amended by adding at the end the following new subsection:

''(e) FRIVOLOUS SUBMISSIONS, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of an application for an offer-in-compromise or installment agreement submitted under this section or section 6159 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.''.

(e) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6702 and inserting the following new item:

''Sec. 6702. Frivolous tax submissions.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to submissions made and issues raised after the date on which the Secretary first prescribes a list under section 6702(c) of the Internal Revenue Code of 1986, as amended by subsection (a).

SEC. ___72. INCREASE IN CRIMINAL MONETARY PENALTY LIMITATION FOR THE UNDERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.

(a) IN GENERAL.—Section 7206 (relating to fraud and false statements) is amended—

(1) by striking ''Any person who—'' and inserting ''(a) IN GENERAL.—Any person who—'', and

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

''(b) INCREASE IN MONETARY LIMITATION FOR UNDERPAYMENT OR OVERPAYMENT OF TAX DUE TO FRAUD.—If any portion of any underpayment (as defined in section 6664(a)) or overpayment (as defined in section 6401(a)) of tax required to be shown on a return is attributable to fraudulent action described in subsection (a), the applicable dollar amount under subsection (a) shall in no event be less than an amount equal to such portion. A rule similar to the rule under section 6663(b) shall apply for purposes of determining the portion so attributable.''.

(b) INCREASE IN PENALTIES.—

(1) ATTEMPT TO EVADE OR DEFEAT TAX.—Section 7201 is amended—

(A) by striking ''$100,000'' and inserting ''$250,000'',

(B) by striking ''$500,000'' and inserting ''$1,000,000'', and

(C) by striking ''5 years'' and inserting ''10 years''.

(2) WILLFUL FAILURE TO FILE RETURN, SUPPLY INFORMATION, OR PAY TAX.—Section 7203 is amended—

(A) in the first sentence—

(i) by striking ''misdemeanor'' and inserting ''felony'', and

(ii) by striking ''1 year'' and inserting ''10 years'', and

(B) by striking the third sentence.

(3) FRAUD AND FALSE STATEMENTS.—Section 7206(a) (as redesignated by subsection (a)) is amended—

(A) by striking ''$100,000'' and inserting ''$250,000'',

(B) by striking ''$500,000'' and inserting ''$1,000,000'', and

(C) by striking ''3 years'' and inserting ''5 years''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to underpayments and overpayments attributable to actions occurring after the date of the enactment of this Act.

SEC. ___73. MODIFICATION OF INTERACTION BETWEEN SUBPART F AND PASSIVE FOREIGN INVESTMENT COMPANY RULES.

(a) LIMITATION ON EXCEPTION FROM PFIC RULES FOR UNITED STATES SHAREHOLDERS OF CONTROLLED FOREIGN CORPORATIONS.—Paragraph (2) of section 1297(e) (relating to passive foreign investment company) is amended by adding at the end the following flush sentence:

''Such term shall not include any period if the earning of subpart F income by such corporation during such period would result in only a remote likelihood of an inclusion in gross income under section 951(a)(1)(A)(i).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years of controlled foreign corporations beginning after March 2, 2005, and to taxable years of United States shareholders with or within which such taxable years of controlled foreign corporations end.

SEC. ___74. TAX TREATMENT OF INVERTED CORPORATE ENTITIES.

(a) IN GENERAL.—Subchapter C of chapter 80 (relating to provisions affecting more than one subtitle) is amended by striking section 7874 and inserting the following:

''SEC. 7874. RULES RELATING TO INVERTED CORPORATE ENTITIES.

''(a) INVERTED CORPORATIONS TREATED AS DOMESTIC CORPORATIONS.—

''(1) IN GENERAL.—If a foreign incorporated entity is treated as an inverted domestic corporation, then, notwithstanding section 7701(a)(4), such entity shall be treated for purposes of this title as a domestic corporation.

''(2) INVERTED DOMESTIC CORPORATION.—For purposes of this section, a foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

''(A) the entity completes after March 20, 2002, the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership,

''(B) after the acquisition at least 80 percent of the stock (by vote or value) of the entity is held—

''(i) in the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation, or

''(ii) in the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership, and

''(C) the expanded affiliated group which after the acquisition includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.

Except as provided in regulations, an acquisition of properties of a domestic corporation shall not be treated as described in subparagraph (A) if none of the corporation's stock was readily tradeable on an established securities market at any time during the 4-year period ending on the date of the acquisition.

''(b) PRESERVATION OF DOMESTIC TAX BASE IN CERTAIN INVERSION TRANSACTIONS TO WHICH SUBSECTION (a) DOES NOT APPLY.—

''(1) IN GENERAL.—If a foreign incorporated entity would be treated as an inverted domestic corporation with respect to an acquired entity if either—

''(A) subsection (a)(2)(A) were applied by substituting 'after December 31, 1996, and on or before March 20, 2002' for 'after March 20, 2002' and subsection (a)(2)(B) were applied by substituting 'more than 50 percent' for 'at least 80 percent', or

''(B) subsection (a)(2)(B) were applied by substituting 'more than 50 percent' for 'at least 80 percent',

then the rules of subsection (c) shall apply to any inversion gain of the acquired entity during the applicable period and the rules of subsection (d) shall apply to any related party transaction of the acquired entity during the applicable period. This subsection shall not apply for any taxable year if subsection (a) applies to such foreign incorporated entity for such taxable year.

''(2) ACQUIRED ENTITY.—For purposes of this section—

''(A) IN GENERAL.—The term 'acquired entity' means the domestic corporation or partnership substantially all of the properties of which are directly or indirectly acquired in an acquisition described in subsection (a)(2)(A) to which this subsection applies.

''(B) AGGREGATION RULES.—Any domestic person bearing a relationship described in section 267(b) or 707(b) to an acquired entity shall be treated as an acquired entity with respect to the acquisition described in subparagraph (A).

''(3) APPLICABLE PERIOD.—For purposes of this section—

''(A) IN GENERAL.—The term 'applicable period' means the period—

''(i) beginning on the first date properties are acquired as part of the acquisition described in subsection (a)(2)(A) to which this subsection applies, and

''(ii) ending on the date which is 10 years after the last date properties are acquired as part of such acquisition.

''(B) SPECIAL RULE FOR INVERSIONS OCCURRING BEFORE MARCH 21, 2002.—In the case of any acquired entity to which paragraph (1)(A) applies, the applicable period shall be the 10-year period beginning on January 1, 2003.

''(c) TAX ON INVERSION GAINS MAY NOT BE OFFSET.—If subsection (b) applies—

''(1) IN GENERAL.—The taxable income of an acquired entity (or any expanded affiliated group which includes such entity) for any taxable year which includes any portion of the applicable period shall in no event be less than the inversion gain of the entity for the taxable year.

''(2) CREDITS NOT ALLOWED AGAINST TAX ON INVERSION GAIN.—Credits shall be allowed against the tax imposed by this chapter on an acquired entity for any taxable year described in paragraph (1) only to the extent such tax exceeds the product of—

''(A) the amount of the inversion gain for the taxable year, and

''(B) the highest rate of tax specified in section 11(b)(1).

For purposes of determining the credit allowed by section 901 inversion gain shall be treated as from sources within the United States.

''(3) SPECIAL RULES FOR PARTNERSHIPS.—In the case of an acquired entity which is a partnership—

''(A) the limitations of this subsection shall apply at the partner rather than the partnership level,

''(B) the inversion gain of any partner for any taxable year shall be equal to the sum of—

''(i) the partner's distributive share of inversion gain of the partnership for such taxable year, plus

''(ii) income or gain required to be recognized for the taxable year by the partner under section 367(a), 741, or 1001, or under any other provision of chapter 1, by reason of the transfer during the applicable period of any partnership interest of the partner in such partnership to the foreign incorporated entity, and

''(C) the highest rate of tax specified in the rate schedule applicable to the partner under chapter 1 shall be substituted for the rate of tax under paragraph (2)(B).

''(4) INVERSION GAIN.—For purposes of this section, the term 'inversion gain' means any income or gain required to be recognized under section 304, 311(b), 367, 1001, or 1248, or under any other provision of chapter 1, by reason of the transfer during the applicable period of stock or other properties by an acquired entity—

''(A) as part of the acquisition described in subsection (a)(2)(A) to which subsection (b) applies, or

''(B) after such acquisition to a foreign related person.

The Secretary may provide that income or gain from the sale of inventories or other transactions in the ordinary course of a trade or business shall not be treated as inversion gain under subparagraph (B) to the extent the Secretary determines such treatment would not be inconsistent with the purposes of this section.

''(5) COORDINATION WITH SECTION 172 AND MINIMUM TAX.—Rules similar to the rules of paragraphs (3) and (4) of section 860E(a) shall apply for purposes of this section.

''(6) STATUTE OF LIMITATIONS.—

''(A) IN GENERAL.—The statutory period for the assessment of any deficiency attributable to the inversion gain of any taxpayer for any pre-inversion year shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of the acquisition described in subsection (a)(2)(A) to which such gain relates and such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

''(B) PRE-INVERSION YEAR.—For purposes of subparagraph (A), the term 'pre-inversion year' means any taxable year if—

''(i) any portion of the applicable period is included in such taxable year, and

''(ii) such year ends before the taxable year in which the acquisition described in subsection (a)(2)(A) is completed.

''(d) SPECIAL RULES APPLICABLE TO ACQUIRED ENTITIES TO WHICH SUBSECTION (b) APPLIES.—

''(1) INCREASES IN ACCURACY-RELATED PENALTIES.—In the case of any underpayment of tax of an acquired entity to which subsection (b) applies—

''(A) section 6662(a) shall be applied with respect to such underpayment by substituting '30 percent' for '20 percent', and

''(B) if such underpayment is attributable to one or more gross valuation understatements, the increase in the rate of penalty under section 6662(h) shall be to 50 percent rather than 40 percent.

''(2) MODIFICATIONS OF LIMITATION ON INTEREST DEDUCTION.—In the case of an acquired entity to which subsection (b) applies, section 163(j) shall be applied—

''(A) without regard to paragraph (2)(A)(ii) thereof, and

''(B) by substituting '25 percent' for '50 percent' each place it appears in paragraph (2)(B) thereof.

''(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) RULES FOR APPLICATION OF SUBSECTION (a)(2).—In applying subsection (a)(2) for purposes of subsections (a) and (b), the following rules shall apply:

''(A) CERTAIN STOCK DISREGARDED.—There shall not be taken into account in determining ownership for purposes of subsection (a)(2)(B)—

''(i) stock held by members of the expanded affiliated group which includes the foreign incorporated entity, or

''(ii) stock of such entity which is sold in a public offering or private placement related to the acquisition described in subsection (a)(2)(A).

''(B) PLAN DEEMED IN CERTAIN CASES.—If a foreign incorporated entity acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is 2 years before the ownership requirements of subsection (a)(2)(B) are met with respect to such domestic corporation or partnership, such actions shall be treated as pursuant to a plan.

''(C) CERTAIN TRANSFERS DISREGARDED.—The transfer of properties or liabilities (including by contribution or distribution) shall be disregarded if such transfers are part of a plan a principal purpose of which is to avoid the purposes of this section.

''(D) SPECIAL RULE FOR RELATED PARTNERSHIPS.—For purposes of applying subsection (a)(2) to the acquisition of a domestic partnership, except as provided in regulations, all partnerships which are under common control (within the meaning of section 482) shall be treated as 1 partnership.

''(E) TREATMENT OF CERTAIN RIGHTS.—The Secretary shall prescribe such regulations as may be necessary—

''(i) to treat warrants, options, contracts to acquire stock, convertible debt instruments, and other similar interests as stock, and

''(ii) to treat stock as not stock.

''(2) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group as defined in section 1504(a) but without regard to section 1504(b)(3), except that section 1504(a) shall be applied by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears.

''(3) FOREIGN INCORPORATED ENTITY.—The term 'foreign incorporated entity' means any entity which is, or but for subsection (a)(1) would be, treated as a foreign corporation for purposes of this title.

''(4) FOREIGN RELATED PERSON.—The term 'foreign related person' means, with respect to any acquired entity, a foreign person which—

''(A) bears a relationship to such entity described in section 267(b) or 707(b), or

''(B) is under the same common control (within the meaning of section 482) as such entity.

''(5) SUBSEQUENT ACQUISITIONS BY UNRELATED DOMESTIC CORPORATIONS.—

''(A) IN GENERAL.—Subject to such conditions, limitations, and exceptions as the Secretary may prescribe, if, after an acquisition described in subsection (a)(2)(A) to which subsection (b) applies, a domestic corporation stock of which is traded on an established securities market acquires directly or indirectly any properties of one or more acquired entities in a transaction with respect to which the requirements of subparagraph (B) are met, this section shall cease to apply to any such acquired entity with respect to which such requirements are met.

''(B) REQUIREMENTS.—The requirements of the subparagraph are met with respect to a transaction involving any acquisition described in subparagraph (A) if—

''(i) before such transaction the domestic corporation did not have a relationship described in section 267(b) or 707(b), and was not under common control (within the meaning of section 482), with the acquired entity, or any member of an expanded affiliated group including such entity, and

''(ii) after such transaction, such acquired entity—

''(I) is a member of the same expanded affiliated group which includes the domestic corporation or has such a relationship or is under such common control with any member of such group, and

''(II) is not a member of, and does not have such a relationship and is not under such common control with any member of, the expanded affiliated group which before such acquisition included such entity.

''(f) REGULATIONS.—The Secretary shall provide such regulations as are necessary to carry out this section, including regulations providing for such adjustments to the application of this section as are necessary to prevent the avoidance of the purposes of this section, including the avoidance of such purposes through—

''(1) the use of related persons, pass-thru or other noncorporate entities, or other intermediaries, or

''(2) transactions designed to have persons cease to be (or not become) members of expanded affiliated groups or related persons.''.

(b) INFORMATION REPORTING.—The Secretary of the Treasury shall exercise the Secretary's authority under the Internal Revenue Code of 1986 to require entities involved in transactions to which section 7874 of such

Code (as added by subsection (a)) applies to report to the Secretary, shareholders, partners, and such other persons as the Secretary may prescribe such information as is necessary to ensure the proper tax treatment of such transactions.

(c) CONFORMING AMENDMENT.—The table of sections for subchapter C of chapter 80 is amended by striking the item relating to section 7874 and inserting the following:

''Sec. 7874. Rules relating to inverted corporate entities.''.

(d) TRANSITION RULE FOR CERTAIN REGULATED INVESTMENT COMPANIES AND UNIT INVESTMENT TRUSTS.—Notwithstanding section 7874 of the Internal Revenue Code of 1986 (as added by subsection (a)), a regulated investment company, or other pooled fund or trust specified by the Secretary of the Treasury, may elect to recognize gain by reason of section 367(a) of such Code with respect to a transaction under which a foreign incorporated entity is treated as an inverted domestic corporation under section 7874(a) of such Code by reason of an acquisition completed after March 20, 2002, and before January 1, 2004.

(e) DISCLOSURE OF CORPORATE EXPATRIATION TRANSACTIONS.—

(1) IN GENERAL.—Section 14 of the Securities Exchange Act of 1934 (15 U.S.C. 78n) is amended by adding at the end the following new subsection:

''(i) PROXY SOLICITATIONS IN CONNECTION WITH CORPORATE EXPATRIATION TRANSACTIONS.—

''(1) DISCLOSURE TO SHAREHOLDERS OF EFFECTS OF CORPORATE EXPATRIATION TRANSACTION.—The Commission shall, by rule, require that each domestic issuer shall prominently disclose, not later than 5 business days before any shareholder vote relating to a corporate expatriation transaction, as a separate and distinct document accompanying each proxy statement relating to the transaction—

''(A) the number of employees of the domestic issuer that would be located in the new foreign jurisdiction of incorporation or organization of that issuer upon completion of the corporate expatriation transaction;

''(B) how the rights of holders of the securities of the domestic issuer would be impacted by a completed corporate expatriation transaction, and any differences in such rights before and after a completed corporate expatriation transaction; and

''(C) that, as a result of a completed corporate expatriation transaction, any taxable holder of the securities of the domestic issuer shall be subject to the taxation of any capital gains realized with respect to such securities, and the amount of any such capital gains tax that would apply as a result of the transaction.

''(2) DEFINITIONS.—In this subsection, the following definitions shall apply:

''(A) CORPORATE EXPATRIATION TRANSACTION.—The term 'corporate expatriation transaction' means any transaction, or series of related transactions, described in subsection (a) or (b) of section 7874 of the Internal Revenue Code of 1986.

''(A) DOMESTIC ISSUER.—The term 'domestic issuer' means an issuer created or organized in the United States or under the law of the United States or of any State.''

(2) EFFECTIVE DATE.—Section 14(i) of the Securities Exchange Act of 1934 (as added by this subsection) shall apply with respect to corporate expatriation transactions (as defined in that section 14(i)) proposed on and after the date of enactment of this Act.

(f) EFFECTIVE DATE.—Except as provided in subsection (e)(2), the amendments made by this section shall take effect as if included in the American Jobs Creation Act of 2004.

SEC. ___75. IMPOSITION OF MARK-TO-MARKET TAX ON INDIVIDUALS WHO EXPATRIATE.

(a) IN GENERAL.—Subpart A of part II of subchapter N of chapter 1 is amended by inserting after section 877 the following new section:

''SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

''(a) GENERAL RULES.—For purposes of this subtitle—

''(1) MARK TO MARKET.—Except as provided in subsections (d) and (f), all property of a covered expatriate to whom this section applies shall be treated as sold on the day before the expatriation date for its fair market value.

''(2) RECOGNITION OF GAIN OR LOSS.—In the case of any sale under paragraph (1)—

''(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale, and

''(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply to any such loss.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence.

''(3) EXCLUSION FOR CERTAIN GAIN.—

''(A) IN GENERAL.—The amount which, but for this paragraph, would be includible in the gross income of any individual by reason of this section shall be reduced (but not below zero) by $600,000. For purposes of this paragraph, allocable expatriation gain taken into account under subsection (f)(2) shall be treated in the same manner as an amount required to be includible in gross income.

''(B) COST-OF-LIVING ADJUSTMENT.—

''(i) IN GENERAL.—In the case of an expatriation date occurring in any calendar year after 2004, the $600,000 amount under subparagraph (A) 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 such calendar year, determined by substituting 'calendar year 2003' for 'calendar year 1992' in subparagraph (B) thereof.

''(ii) ROUNDING RULES.—If any amount after adjustment under clause (i) is not a multiple of $1,000, such amount shall be rounded to the next lower multiple of $1,000.

''(4) ELECTION TO CONTINUE TO BE TAXED AS UNITED STATES CITIZEN.—

''(A) IN GENERAL.—If a covered expatriate elects the application of this paragraph—

''(i) this section (other than this paragraph and subsection (i)) shall not apply to the expatriate, but

''(ii) in the case of property to which this section would apply but for such election, the expatriate shall be subject to tax under this title in the same manner as if the individual were a United States citizen.

''(B) REQUIREMENTS.—Subparagraph (A) shall not apply to an individual unless the individual—

''(i) provides security for payment of tax in such form and manner, and in such amount, as the Secretary may require,

''(ii) consents to the waiver of any right of the individual under any treaty of the United States which would preclude assessment or collection of any tax which may be imposed by reason of this paragraph, and

''(iii) complies with such other requirements as the Secretary may prescribe.

''(C) ELECTION.—An election under subparagraph (A) shall apply to all property to which this section would apply but for the election and, once made, shall be irrevocable. Such election shall also apply to property the basis of which is determined in whole or in part by reference to the property with respect to which the election was made.

''(b) ELECTION TO DEFER TAX.—

''(1) IN GENERAL.—If the taxpayer elects the application of this subsection with respect to any property treated as sold by reason of subsection (a), the payment of the additional tax attributable to such property shall be postponed until the due date of the return for the taxable year in which such property is disposed of (or, in the case of property disposed of in a transaction in which gain is not recognized in whole or in part, until such other date as the Secretary may prescribe).

''(2) DETERMINATION OF TAX WITH RESPECT TO PROPERTY.—For purposes of paragraph (1), the additional tax attributable to any property is an amount which bears the same ratio to the additional tax imposed by this chapter for the taxable year solely by reason of subsection (a) as the gain taken into account under subsection (a) with respect to such property bears to the total gain taken into account under subsection (a) with respect to all property to which subsection (a) applies.

''(3) TERMINATION OF POSTPONEMENT.—No tax may be postponed under this subsection later than the due date for the return of tax imposed by this chapter for the taxable year which includes the date of death of the expatriate (or, if earlier, the time that the security provided with respect to the property fails to meet the requirements of paragraph (4), unless the taxpayer corrects such failure within the time specified by the Secretary).

''(4) SECURITY.—

''(A) IN GENERAL.—No election may be made under paragraph (1) with respect to any property unless adequate security is provided to the Secretary with respect to such property.

''(B) ADEQUATE SECURITY.—For purposes of subparagraph (A), security with respect to any property shall be treated as adequate security if—

''(i) it is a bond in an amount equal to the deferred tax amount under paragraph (2) for the property, or

''(ii) the taxpayer otherwise establishes to the satisfaction of the Secretary that the security is adequate.

''(5) WAIVER OF CERTAIN RIGHTS.—No election may be made under paragraph (1) unless the taxpayer consents to the waiver of any right under any treaty of the United States which would preclude assessment or collection of any tax imposed by reason of this section.

''(6) ELECTIONS.—An election under paragraph (1) shall only apply to property described in the election and, once made, is irrevocable. An election may be made under paragraph (1) with respect to an interest in a trust with respect to which gain is required to be recognized under subsection (f)(1).

''(7) INTEREST.—For purposes of section 6601—

''(A) the last date for the payment of tax shall be determined without regard to the election under this subsection, and

''(B) section 6621(a)(2) shall be applied by substituting '5 percentage points' for '3 percentage points' in subparagraph (B) thereof.

''(c) COVERED EXPATRIATE.—For purposes of this section—

''(1) IN GENERAL.—Except as provided in paragraph (2), the term 'covered expatriate' means an expatriate.

''(2) EXCEPTIONS.—An individual shall not be treated as a covered expatriate if—

''(A) the individual—

''(i) became at birth a citizen of the United States and a citizen of another country and, as of the expatriation date, continues to be a citizen of, and is taxed as a resident of, such other country, and

''(ii) has not been a resident of the United States (as defined in section 7701(b)(1)(A)(ii)) during the 5 taxable years ending with the taxable year during which the expatriation date occurs, or

''(B)(i) the individual's relinquishment of United States citizenship occurs before such individual attains age 18½, and

''(ii) the individual has been a resident of the United States (as so defined) for not more than 5 taxable years before the date of relinquishment.

''(d) EXEMPT PROPERTY; SPECIAL RULES FOR PENSION PLANS.—

''(1) EXEMPT PROPERTY.—This section shall not apply to the following:

''(A) UNITED STATES REAL PROPERTY INTERESTS.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the day before the expatriation date, meet the requirements of section 897(c)(2).

''(B) SPECIFIED PROPERTY.—Any property or interest in property not described in subparagraph (A) which the Secretary specifies in regulations.

''(2) SPECIAL RULES FOR CERTAIN RETIREMENT PLANS.—

''(A) IN GENERAL.—If a covered expatriate holds on the day before the expatriation date any interest in a retirement plan to which this paragraph applies—

''(i) such interest shall not be treated as sold for purposes of subsection (a)(1), but

''(ii) an amount equal to the present value of the expatriate's nonforfeitable accrued benefit shall be treated as having been received by such individual on such date as a distribution under the plan.

''(B) TREATMENT OF SUBSEQUENT DISTRIBUTIONS.—In the case of any distribution on or after the expatriation date to or on behalf of the covered expatriate from a plan from which the expatriate was treated as receiving a distribution under subparagraph (A), the amount otherwise includible in gross income by reason of the subsequent distribution shall be reduced by the excess of the amount includible in gross income under subparagraph (A) over any portion of such amount to which this subparagraph previously applied.

''(C) TREATMENT OF SUBSEQUENT DISTRIBUTIONS BY PLAN.—For purposes of this title, a retirement plan to which this paragraph applies, and any person acting on the plan's behalf, shall treat any subsequent distribution described in subparagraph (B) in the same manner as such distribution would be treated without regard to this paragraph.

''(D) APPLICABLE PLANS.—This paragraph shall apply to—

''(i) any qualified retirement plan (as defined in section 4974(c)),

''(ii) an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A), and

''(iii) to the extent provided in regulations, any foreign pension plan or similar retirement arrangements or programs.

''(e) DEFINITIONS.—For purposes of this section—

''(1) EXPATRIATE.—The term 'expatriate' means—

''(A) any United States citizen who relinquishes citizenship, and

''(B) any long-term resident of the United States who—

''(i) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

''(ii) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

''(2) EXPATRIATION DATE.—The term 'expatriation date' means—

''(A) the date an individual relinquishes United States citizenship, or

''(B) in the case of a long-term resident of the United States, the date of the event described in clause (i) or (ii) of paragraph (1)(B).

''(3) RELINQUISHMENT OF CITIZENSHIP.—A citizen shall be treated as relinquishing United States citizenship on the earliest of—

''(A) the date the individual renounces such individual's United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

''(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)),

''(C) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

''(D) the date a court of the United States cancels a naturalized citizen's certificate of naturalization.

Subparagraph (A) or (B) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

''(4) LONG-TERM RESIDENT.—The term 'long-term resident' has the meaning given to such term by section 877(e)(2).

''(f) SPECIAL RULES APPLICABLE TO BENEFICIARIES' INTERESTS IN TRUST.—

''(1) IN GENERAL.—Except as provided in paragraph (2), if an individual is determined under paragraph (3) to hold an interest in a trust on the day before the expatriation date—

''(A) the individual shall not be treated as having sold such interest,

''(B) such interest shall be treated as a separate share in the trust, and

''(C)(i) such separate share shall be treated as a separate trust consisting of the assets allocable to such share,

''(ii) the separate trust shall be treated as having sold its assets on the day before the expatriation date for their fair market value and as having distributed all of its assets to the individual as of such time, and

''(iii) the individual shall be treated as having recontributed the assets to the separate trust.

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (C)(ii). In determining the amount of such distribution, proper adjustments shall be made for liabilities of the trust allocable to an individual's share in the trust.

''(2) SPECIAL RULES FOR INTERESTS IN QUALIFIED TRUSTS.—

''(A) IN GENERAL.—If the trust interest described in paragraph (1) is an interest in a qualified trust—

''(i) paragraph (1) and subsection (a) shall not apply, and

''(ii) in addition to any other tax imposed by this title, there is hereby imposed on each distribution with respect to such interest a tax in the amount determined under subparagraph (B).

''(B) AMOUNT OF TAX.—The amount of tax under subparagraph (A)(ii) shall be equal to the lesser of—

''(i) the highest rate of tax imposed by section 1(e) for the taxable year which includes the day before the expatriation date, multiplied by the amount of the distribution, or

''(ii) the balance in the deferred tax account immediately before the distribution determined without regard to any increases under subparagraph (C)(ii) after the 30th day preceding the distribution.

''(C) DEFERRED TAX ACCOUNT.—For purposes of subparagraph (B)(ii)—

''(i) OPENING BALANCE.—The opening balance in a deferred tax account with respect to any trust interest is an amount equal to the tax which would have been imposed on the allocable expatriation gain with respect to the trust interest if such gain had been included in gross income under subsection (a).

''(ii) INCREASE FOR INTEREST.—The balance in the deferred tax account shall be increased by the amount of interest determined (on the balance in the account at the time the interest accrues), for periods after the 90th day after the expatriation date, by using the rates and method applicable under section 6621 for underpayments of tax for such periods, except that section 6621(a)(2) shall be applied by substituting '5 percentage points' for '3 percentage points' in subparagraph (B) thereof.

''(iii) DECREASE FOR TAXES PREVIOUSLY PAID.—The balance in the tax deferred account shall be reduced—

''(I) by the amount of taxes imposed by subparagraph (A) on any distribution to the person holding the trust interest, and

''(II) in the case of a person holding a nonvested interest, to the extent provided in regulations, by the amount of taxes imposed by subparagraph (A) on distributions from the trust with respect to nonvested interests not held by such person.

''(D) ALLOCABLE EXPATRIATION GAIN.—For purposes of this paragraph, the allocable expatriation gain with respect to any beneficiary's interest in a trust is the amount of gain which would be allocable to such beneficiary's vested and nonvested interests in the trust if the beneficiary held directly all assets allocable to such interests.

''(E) TAX DEDUCTED AND WITHHELD.—

''(i) IN GENERAL.—The tax imposed by subparagraph (A)(ii) shall be deducted and withheld by the trustees from the distribution to which it relates.

''(ii) EXCEPTION WHERE FAILURE TO WAIVE TREATY RIGHTS.—If an amount may not be deducted and withheld under clause (i) by reason of the distributee failing to waive any treaty right with respect to such distribution—

''(I) the tax imposed by subparagraph (A)(ii) shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax, and

''(II) any other beneficiary of the trust shall be entitled to recover from the distributee the amount of such tax imposed on the other beneficiary.

''(F) DISPOSITION.—If a trust ceases to be a qualified trust at any time, a covered expatriate disposes of an interest in a qualified trust, or a covered expatriate holding an interest in a qualified trust dies, then, in lieu of the tax imposed by subparagraph (A)(ii), there is hereby imposed a tax equal to the lesser of—

''(i) the tax determined under paragraph (1) as if the day before the expatriation date were the date of such cessation, disposition, or death, whichever is applicable, or

''(ii) the balance in the tax deferred account immediately before such date.

Such tax shall be imposed on the trust and each trustee shall be personally liable for the

amount of such tax and any other beneficiary of the trust shall be entitled to recover from the covered expatriate or the estate the amount of such tax imposed on the other beneficiary.

''(G) DEFINITIONS AND SPECIAL RULES.—For purposes of this paragraph—

''(i) QUALIFIED TRUST.—The term 'qualified trust' means a trust which is described in section 7701(a)(30)(E).

''(ii) VESTED INTEREST.—The term 'vested interest' means any interest which, as of the day before the expatriation date, is vested in the beneficiary.

''(iii) NONVESTED INTEREST.—The term 'nonvested interest' means, with respect to any beneficiary, any interest in a trust which is not a vested interest. Such interest shall be determined by assuming the maximum exercise of discretion in favor of the beneficiary and the occurrence of all contingencies in favor of the beneficiary.

''(iv) ADJUSTMENTS.—The Secretary may provide for such adjustments to the bases of assets in a trust or a deferred tax account, and the timing of such adjustments, in order to ensure that gain is taxed only once.

''(v) COORDINATION WITH RETIREMENT PLAN RULES.—This subsection shall not apply to an interest in a trust which is part of a retirement plan to which subsection (d)(2) applies.

''(3) DETERMINATION OF BENEFICIARIES' INTEREST IN TRUST.—

''(A) DETERMINATIONS UNDER PARAGRAPH (1).—For purposes of paragraph (1), a beneficiary's interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar adviser.

''(B) OTHER DETERMINATIONS.—For purposes of this section—

''(i) CONSTRUCTIVE OWNERSHIP.—If a beneficiary of a trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

''(ii) TAXPAYER RETURN POSITION.—A taxpayer shall clearly indicate on its income tax return—

''(I) the methodology used to determine that taxpayer's trust interest under this section, and

''(II) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary's trust interest under this section.

''(g) TERMINATION OF DEFERRALS, ETC.—In the case of any covered expatriate, notwithstanding any other provision of this title—

''(1) any period during which recognition of income or gain is deferred shall terminate on the day before the expatriation date, and

''(2) any extension of time for payment of tax shall cease to apply on the day before the expatriation date and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

''(h) IMPOSITION OF TENTATIVE TAX.—

''(1) IN GENERAL.—If an individual is required to include any amount in gross income under subsection (a) for any taxable year, there is hereby imposed, immediately before the expatriation date, a tax in an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the expatriation date.

''(2) DUE DATE.—The due date for any tax imposed by paragraph (1) shall be the 90th day after the expatriation date.

''(3) TREATMENT OF TAX.—Any tax paid under paragraph (1) shall be treated as a payment of the tax imposed by this chapter for the taxable year to which subsection (a) applies.

''(4) DEFERRAL OF TAX.—The provisions of subsection (b) shall apply to the tax imposed by this subsection to the extent attributable to gain includible in gross income by reason of this section.

''(i) SPECIAL LIENS FOR DEFERRED TAX AMOUNTS.—

''(1) IMPOSITION OF LIEN.—

''(A) IN GENERAL.—If a covered expatriate makes an election under subsection (a)(4) or (b) which results in the deferral of any tax imposed by reason of subsection (a), the deferred amount (including any interest, additional amount, addition to tax, assessable penalty, and costs attributable to the deferred amount) shall be a lien in favor of the United States on all property of the expatriate located in the United States (without regard to whether this section applies to the property).

''(B) DEFERRED AMOUNT.—For purposes of this subsection, the deferred amount is the amount of the increase in the covered expatriate's income tax which, but for the election under subsection (a)(4) or (b), would have occurred by reason of this section for the taxable year including the expatriation date.

''(2) PERIOD OF LIEN.—The lien imposed by this subsection shall arise on the expatriation date and continue until—

''(A) the liability for tax by reason of this section is satisfied or has become unenforceable by reason of lapse of time, or

''(B) it is established to the satisfaction of the Secretary that no further tax liability may arise by reason of this section.

''(3) CERTAIN RULES APPLY.—The rules set forth in paragraphs (1), (3), and (4) of section 6324A(d) shall apply with respect to the lien imposed by this subsection as if it were a lien imposed by section 6324A.

''(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''.

(b) INCLUSION IN INCOME OF GIFTS AND BEQUESTS RECEIVED BY UNITED STATES CITIZENS AND RESIDENTS FROM EXPATRIATES.—Section 102 (relating to gifts, etc. not included in gross income) is amended by adding at the end the following new subsection:

''(d) GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.—

''(1) IN GENERAL.—Subsection (a) shall not exclude from gross income the value of any property acquired by gift, bequest, devise, or inheritance from a covered expatriate after the expatriation date. For purposes of this subsection, any term used in this subsection which is also used in section 877A shall have the same meaning as when used in section 877A.

''(2) EXCEPTIONS FOR TRANSFERS OTHERWISE SUBJECT TO ESTATE OR GIFT TAX.—Paragraph (1) shall not apply to any property if either—

''(A) the gift, bequest, devise, or inheritance is—

''(i) shown on a timely filed return of tax imposed by chapter 12 as a taxable gift by the covered expatriate, or

''(ii) included in the gross estate of the covered expatriate for purposes of chapter 11 and shown on a timely filed return of tax imposed by chapter 11 of the estate of the covered expatriate, or

''(B) no such return was timely filed but no such return would have been required to be filed even if the covered expatriate were a citizen or long-term resident of the United States.''.

(c) DEFINITION OF TERMINATION OF UNITED STATES CITIZENSHIP.—Section 7701(a) is amended by adding at the end the following new paragraph:

''(48) TERMINATION OF UNITED STATES CITIZENSHIP.—

''(A) IN GENERAL.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3).

''(B) DUAL CITIZENS.—Under regulations prescribed by the Secretary, subparagraph (A) shall not apply to an individual who became at birth a citizen of the United States and a citizen of another country.''.

(d) INELIGIBILITY FOR VISA OR ADMISSION TO UNITED STATES.—

(1) IN GENERAL.—Section 212(a)(10)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(E)) is amended to read as follows:

''(E) FORMER CITIZENS NOT IN COMPLIANCE WITH EXPATRIATION REVENUE PROVISIONS.—Any alien who is a former citizen of the United States who relinquishes United States citizenship (within the meaning of section 877A(e)(3) of the Internal Revenue Code of 1986) and who is not in compliance with section 877A of such Code (relating to expatriation).''.

(2) AVAILABILITY OF INFORMATION.—

(A) IN GENERAL.—Section 6103(l) (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end the following new paragraph:

''(19) DISCLOSURE TO DENY VISA OR ADMISSION TO CERTAIN EXPATRIATES.—Upon written request of the Attorney General or the Attorney General's delegate, the Secretary shall disclose whether an individual is in compliance with section 877A (and if not in compliance, any items of noncompliance) to officers and employees of the Federal agency responsible for administering section 212(a)(10)(E) of the Immigration and Nationality Act solely for the purpose of, and to the extent necessary in, administering such section 212(a)(10)(E).''.

(B) SAFEGUARDS.—

(i) TECHNICAL AMENDMENTS.—Paragraph (4) of section 6103(p) of the Internal Revenue Code of 1986, as amended by section 202(b)(2)(B) of the Trade Act of 2002 (Public Law 107–210; 116 Stat. 961), is amended by striking ''or (17)'' after ''any other person described in subsection (l)(16)'' each place it appears and inserting ''or (18)''.

(ii) CONFORMING AMENDMENTS.—Section 6103(p)(4) (relating to safeguards), as amended by clause (i), is amended by striking ''or (18)'' after ''any other person described in subsection (l)(16)'' each place it appears and inserting ''(18), or (19)''.

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall apply to individuals who relinquish United States citizenship on or after the date of the enactment of this Act.

(B) TECHNICAL AMENDMENTS.—The amendments made by paragraph (2)(B)(i) shall take effect as if included in the amendments made by section 202(b)(2)(B) of the Trade Act of 2002 (Public Law 107–210; 116 Stat. 961).

(e) CONFORMING AMENDMENTS.—

(1) Section 877 is amended by adding at the end the following new subsection:

''(g) APPLICATION.—This section shall not apply to an expatriate (as defined in section 877A(e)) whose expatriation date (as so defined) occurs on or after April 1, 2005.''.

(2) Section 2107 is amended by adding at the end the following new subsection:

''(f) APPLICATION.—This section shall not apply to any expatriate subject to section 877A.''.

(3) Section 2501(a)(3) is amended by adding at the end the following new subparagraph:

''(F) APPLICATION.—This paragraph shall not apply to any expatriate subject to section 877A.''.

(4)(A) Paragraph (1) of section 6039G(d) is amended by inserting ''or 877A'' after ''section 877''.

(B) The second sentence of section 6039G(e) is amended by inserting ''or who relinquishes United States citizenship (within the meaning of section 877A(e)(3))'' after ''877(a))''.

(C) Section 6039G(f) is amended by inserting ''or 877A(e)(2)(B)'' after ''877(e)(1)''.

(f) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

''Sec. 877A. Tax responsibilities of expatriation.''.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after April 1, 2005.

(2) GIFTS AND BEQUESTS.—Section 102(d) of the Internal Revenue Code of 1986 (as added by subsection (b)) shall apply to gifts and bequests received on or after April 1, 2005, from an individual or the estate of an individual whose expatriation date (as so defined) occurs after such date.

(3) DUE DATE FOR TENTATIVE TAX.—The due date under section 877A(h)(2) of the Internal Revenue Code of 1986, as added by this section, shall in no event occur before the 90th day after the date of the enactment of this Act.

SEC. ___76. DOUBLING OF CERTAIN PENALTIES, FINES, AND INTEREST ON UNDERPAYMENTS RELATED TO CERTAIN OFFSHORE FINANCIAL ARRANGEMENT.

(a) DETERMINATION OF PENALTY.—

(1) IN GENERAL.—Notwithstanding any other provision of law, in the case of an applicable taxpayer—

(A) the determination as to whether any interest or applicable penalty is to be imposed with respect to any arrangement to which any initiative described in paragraph (2) applied, or to any underpayment of Federal income tax attributable to items arising in connection with any arrangement described in paragraph (2), shall be made without regard to section 6664 of the Internal Revenue Code of 1986, and

(B) if any such interest or applicable penalty is imposed, the amount of such interest or penalty shall be equal to twice that determined without regard to this section.

(2) APPLICABLE TAXPAYER.—For purposes of this subsection, the term ''applicable taxpayer'' means a taxpayer eligible to participate in—

(A) the Department of the Treasury's Offshore Voluntary Compliance Initiative, or

(B) the Department of the Treasury's voluntary disclosure initiative which applies to the taxpayer by reason of the taxpayer's underreporting of United States income tax liability through financial arrangements which rely on the use of offshore arrangements which were the subject of the initiative described in subparagraph (A).

(b) DEFINITIONS AND RULES.—For purposes of this section—

(1) APPLICABLE PENALTY.—The term ''applicable penalty'' means any penalty, addition to tax, or fine imposed under chapter 68 of the Internal Revenue Code of 1986.

(2) VOLUNTARY OFFSHORE COMPLIANCE INITIATIVE.—The term ''Voluntary Offshore Compliance Initiative'' means the program established by the Department of the Treasury in January of 2003 under which any taxpayer was eligible to voluntarily disclose previously undisclosed income on assets placed in offshore accounts and accessed through credit card and other financial arrangements.

(3) PARTICIPATION.—A taxpayer shall be treated as having participated in the Voluntary Offshore Compliance Initiative if the taxpayer submitted the request in a timely manner and all information requested by the Secretary of the Treasury or his delegate within a reasonable period of time following the request.

(c) EFFECTIVE DATE.—The provisions of this section shall apply to interest, penalties, additions to tax, and fines with respect to any taxable year if as of the date of the enactment of this Act, the assessment of any tax, penalty, or interest with respect to such taxable year is not prevented by the operation of any law or rule of law.

SEC. ___77. TREASURY REGULATIONS ON FOREIGN TAX CREDIT.

Section 901 is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) REGULATIONS.—The Secretary may prescribe regulations disallowing a credit under subsection (a) for all or a portion of any foreign tax, or allocating a foreign tax among 2 or more persons, in cases where the foreign tax is imposed on any person in respect of income of another person or in other cases involving the inappropriate separation of the foreign tax from the related foreign income.''.

SEC. ___78. TREATMENT OF CONTINGENT PAYMENT CONVERTIBLE DEBT INSTRUMENTS.

(a) IN GENERAL.—Section 1275(d) (relating to regulation authority) is amended—

(1) by striking ''The Secretary'' and inserting the following:

''(1) IN GENERAL.—The Secretary'', and

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

''(2) TREATMENT OF CONTINGENT PAYMENT CONVERTIBLE DEBT.—

''(A) IN GENERAL.—In the case of a debt instrument which—

''(i) is convertible into stock of the issuing corporation, into stock or debt of a related party (within the meaning of section 267(b) or 707(b)(1)), or into cash or other property in an amount equal to the approximate value of such stock or debt, and

''(ii) provides for contingent payments,

any regulations which require original issue discount to be determined by reference to the comparable yield of a noncontingent fixed rate debt instrument shall be applied as requiring that such comparable yield be determined by reference to a noncontingent fixed rate debt instrument which is convertible into stock.

''(B) SPECIAL RULE.—For purposes of subparagraph (A), the comparable yield shall be determined without taking into account the yield resulting from the conversion of a debt instrument into stock.''.

(b) CROSS REFERENCE.—Section 163(e)(6) (relating to cross references) is amended by adding at the end the following:

''For the treatment of contingent payment convertible debt, see section 1275(d)(2).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to debt instruments issued on or after the date of the enactment of this Act.

SA 2116. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 311, line 19, strike the period and insert '': Provided further, That of the funds provided under this paragraph $250,000 shall be available for the Learning Collaborative, to implement the Web Portal Technology Development Initiative in Daviess County schools (not for Daviess County generally).''.

SA 2117. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 244, line 17, insert '', of which $5,000,000 shall be made available to carry out the grant program authorized under section 158(b) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 942(b)) and not more than 10 percent of this amount may be used for administrative purposes:'' after ''Highway Trust Fund:''.

SA 2118. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 276, after line 24, add the following:

SEC. 18____. Notwithstanding any other provision of law, a vehicle that, with respect to weight or weight distribution characteristics, could lawfully operate in the State of North Dakota as of January 1, 2004, on United States Highway 52 (including the United States Highway 52 bypass of Jamestown, North Dakota) or on United States Highway 281 may operate on Interstate Route 94 in North Dakota between the intersection of Interstate Route 94 and United States Route 281 and the intersection of Interstate Route 94 and the United States Highway 52 bypass (including interchanges), under the same conditions as the vehicle may operate in that State on those United States highways (including that bypass).

SA 2119. Mr. ENSIGN (for himself and Mr. REID) submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 230, after line 22, insert the following:

SEC. 109. Section 40128(e) of title 49, United States Code, is amended by adding at the end the following: ''For purposes of this subsection, an air tour operator flying over the Hoover Dam in the Lake Mead National Recreation Area en route to the Grand Canyon National Park shall be deemed to be flying solely as a transportation route.''.

SA 2120. Mr. VOINOVICH (for himself and Mr. DEWINE) submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 436, between lines 10 and 11, insert the following:

SEC. 8_____.(a) The table contained in section 1702 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109–59; 119 Stat. 1144) is amended in item number 4632 by striking ''Construct 1,100 foot bulkhead/riverwalk connecting Front and Maine Ave. public rights-of-way'' and inserting ''For roadway improvements and construction of 1,100 foot bulkhead/riverwalk connecting Front and Maine Ave. public rights-of-way''.

(b) The table contained in section 3044 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109–59; 119 Stat. 1144) is amended in item number 516 by striking ''Dayton Wright Stop Plaza'' and inserting ''Downtown Dayton Transit Enhancements''.

SA 2121. Mr. SCHUMER (for himself and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 348, between lines 5 and 6, insert the following:

SEC. 321. OPERATING FUND PROGRAM FINAL RULE.

(a) IN GENERAL.—Notwithstanding any other provision of law, or of the Operating Fund program final rule published by the Department of Housing and Urban Development on September 19, 2005, 79 Fed. Reg. 54984, the 5 year schedule set out in the table appearing in §990.230(e) of the final rule shall commence 1 year from the Secretary's publication of guidance in a Federal Register notice defining specifically the manner in which public housing authorities shall comply with the provisions of §990.275 (Project-Based Management) and §990.280 (Project-Based Accounting and Budgeting).

(b) COMPLIANCE.—Each public housing authority shall be deemed in compliance with Subpart H of the final rule described in subsection (a), pending completion of the Secretary's review of the asset management demonstration submitted by the housing authority based on the guidance issued by the Secretary or the review conducted by the Secretary's independent assessor.

SA 2122. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 338, line 15, strike ''and is occupied primarily by elderly or disabled families''.

On page 338, line 19, insert '', and the contract for such payments shall be renewable by the owner under the provisions of section 524 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note)'' after ''in the property''.

SA 2123. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; as follows:

At the end of the bill, add the following:

TITLE ___—NATURAL DISASTER OIL AND GAS PRICE GOUGING PREVENTION ACT OF 2005

SEC. _01. SHORT TITLE.

This title may be cited as the ''Natural Disaster Oil and Gas Price Gouging Prevention Act of 2005''.

SEC. _02. DEFINITIONS.

In this title:

(1) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(2) QUALIFYING NATURAL DISASTER DECLARATION.—The term ''qualifying natural disaster declaration'' means—

(A) a natural disaster declared by the Secretary under section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)); or

(B) a major disaster or emergency designated by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

SEC. _03. RESTRICTION ON PRICE GOUGING.

(a) RESTRICTIONS.—It shall be unlawful in the United States during the period of a qualifying natural disaster declaration in the United States to increase the price of any oil or gas product more than 15 percent above the price of that product immediately prior to the declaration unless the increase in the amount charged is attributable to additional costs incurred by the seller or national or international market trends.

(b) ENFORCEMENT.—

(1) ENFORCEMENT POWERS.—

(A) IN GENERAL.—The Commission shall enforce this section as part of its duties under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(B) REPORTING OF VIOLATIONS.—For purposes of the enforcement of this section, the Commission shall establish procedures to permit the reporting of violations of this section to the Commission, including appropriate links on the Internet website of the Commission and the use of a toll-free telephone number for such purposes.

(2) PENALTY.—

(A) CRIMINAL PENALTY.—A violation of this section shall be deemed a felony and a person, upon conviction of a violation of this section, shall be punished by fine not exceeding $10,000,000 if a corporation, or, if any other person, $350,000, or by imprisonment not exceeding 3 years, or both.

(B) CIVIL PENALTY.—The Commission may impose a civil penalty not to exceed $5,000 for each violation of this section. For purposes of this subparagraph, each day of violation shall constitute a separate offense. Civil penalties under this subparagraph shall not exceed amounts provided in subparagraph (A).

(c) ACTION BY STATE ATTORNEY GENERAL.—The attorney general of a State may bring a civil action for a violation of this section pursuant to section 4C of the Clayton Act (15 U.S.C. 15c).

SA 2124. Mr. SCHUMER (for himself, Ms. SNOWE, Mrs. CLINTON, Mr. JEFFORDS, and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies 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, line 26, strike ''$60,000,000'' and all that follows through the period on page 221, line 2, and insert the following: ''$77,000,000, to be derived from the Airport and Airway Trust Fund, to remain available until expended: *Provided*, That not to exceed $17,000,000 for fiscal year 2006 shall be used for adjustments to account for significantly increased costs as provided for in section 41737(e)(1) of title 49, United States Code: *Provided further*, That amounts provided in this Act for salaries and expenses for the Department of Transportation, the Department of the Treasury, the Department of Housing and Urban Development, the Judiciary, and the Executive Office of the President are reduced by an aggregate of $17,000,000 on a pro rata basis.''.

SA 2125. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies 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, line 26, strike ''$60,000,000'' and all that follows through the period on page 221, line 2, and insert the following: ''$170,000,000, to be derived from the Airport and Airway Trust Fund, to remain available until expended: *Provided*, That not to exceed $17,000,000 for fiscal year 2006 shall be used for adjustments to account for significantly increased costs as provided for in section 41737(e)(1) of title 49, United States Code.''.

SA 2126. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 226, line 17, strike ''$3,390,000,000'' and insert ''$3,468,904,000''.

On page 227, line 3, strike ''$71,096,000'' and insert ''$150,000,000''.

SA 2127. Mr. FRIST (for himself, Mrs. DOLE, Ms. STABENOW, and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 310 line 11, strike the word ''and'' after the word ''LISC'' and insert '','' and on page 310 on line 12 after the words ''Enterprise Foundation'' insert '', and the Habitat for Humanity''; and on page 319 line 17 after the word ''Foundation'' insert the following ''Habitat for Humanity,''.

SA 2128. Mr. FRIST (for himself, Mrs. DOLE, Ms. STABENOW, and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 310 line 11, strike the word ''and'' after the word ''LISC'' and insert '','' and on page 310 on line 12 after the words ''Enterprise Foundation'' insert '', and the Habitat for Humanity''.

SA 2129. Mr. WARNER submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 276, after line 24, add the following:

SEC. ____. The item numbered 1832 in the table contained in section 1702 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109–59; 119 Stat. 1144) is amended by inserting '', in fiscal year 2006'' after ''Virginia''.

SA 2130. Mr. WARNER submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 276, after line 24, add the following:

SEC. ____. The item numbered 2551 in the table contained in section 1702 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109–59; 119 Stat. 1144) is amended by inserting ''in fiscal year 2006'' after ''2007''.

SA 2131. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 436, between lines 10 and 11, insert the following:

SEC. 844. EMINENT DOMAIN.

None of the funds made available in this Act may be used by any state, county, municipality, city, town or other political subdivision that engages or participates in the taking of private property by eminent domain without the consent of the owner and conveys or leases such property to another private person or entity for commercial, financial or retail enterprise, or to increase tax revenue, tax base, employment, or general economic health, unless the taking involves (a) conveying private property for the occupation and enjoyment of the land by the general public, or by public agencies, such as for a roadway, waterway, airport, school, hospital, military base, prison, public park, or a government building; or (b) conveying private property to an entity, such as a state or federally regulated public utility or common carrier, for the creation or functioning of public service infrastructure, such as for public utilities, waste treatment facilities, railroads, or transportation of natural gas, crude oil or refined petroleum products; or (c) condemning property that constitutes a severe threat to public health and safety, such as structures that are beyond repair or otherwise unfit for human habitation or use; or (d) leasing property to a private person or entity that occupies an incidental part of public property or a public facility, such as a retail establishment on the ground floor of a public building; or (e) acquiring abandoned property.

SA 2132. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 290, between lines 14 and 15, insert the following:

SEC. 209A.(a) The Senate makes the following findings:

(1) For a voluntary, self-reporting tax system to work, taxpayers must believe that all taxpayers pay their fair share of taxes.

(2) Many States base State income tax liability on amounts reported with respect to Federal income taxes, with the result that amounts not collected with respect to Federal income taxes are also not collected with respect to State income taxes at a time when many States are hard-pressed to meet their many financial demands.

(3) A study conducted by the National Research Program of the Internal Revenue Service determined that taxpayer non-compliance costs the Federal Government over $300,000,000,000 each year in uncollected taxes.

(4) The National Research Program study estimates that the tax shortfall attributable to individual income taxes is as high as $100,000,000,000 with respect to business income and more than $50,000,000,000 with respect to non-business income.

(5) An analysis published in 2005 by tax law Professors Joseph Dodge and Jay Soled estimated that the loss of Federal income tax revenue associated with the under reporting of capital gains is $250,000,000,000 over the coming decade.

(6) Non-compliance places an unfair burden on all taxpayers.

(7) Prior to launching the National Research Program, the Internal Revenue Service did not have in place an automated system to verify and audit capital gains information reported on Schedule D of Federal income tax returns, and now only examines Schedule D information when it is part of a larger tax audit.

(8) The reliance on random audits has created an impression in the investment community that enforcement of capital gains is limited or, worse, non-existent, and has also created an environment of inaccuracy and non-compliance with respect to Schedule D.

(9) Internal Revenue Service efforts to reduce the tax gap focus on increasing field examinations and audits, particularly of high-income taxpayers.

(10) One of the key components of National Research Program was the introduction, on a pilot basis, of a ''smart'' process to assist with the determination of the correct cost basis of capital gains and losses reported on Schedule D.

(b) It is the sense of the Senate that the Internal Revenue Service should utilize processes and technological tools that assist with the independent verification of taxpayer data, including the cost basis information of capital gains and losses reported on Schedule D, that will comply with all of the applicable rules and methods of the Internal Revenue Code of 1986 to ensure that all taxpayers pay their fair share of Federal income tax and to decrease the shortfall in tax revenues to the benefit of all taxpayers.

SA 2133. Mr. DORGAN (for himself, Mr. CRAIG, Mr. ENZI, and Mr. BAUCUS) proposed an amendment to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; as follows:

At the appropriate place in the bill, insert the following:

SEC. ____. (a) None of the funds made available in this Act may be used to administer or enforce part 515 of title 31, Code of Federal Regulations (the Cuban Assets Control Regulations) with respect to any travel or travel-related transaction.

(b) The limitation established in subsection (a) shall not apply to—

(1) the administration of general or specific licenses for travel or travel-related transactions;

(2) section 515.204, 515.206, 515.332, 515.536, 515.544, 515.547, 515.560(c)(3), 515.569, 515.571, or 515.803 of such part 515; or

(3) transactions in relation to any business travel covered by section 515.560(g) of such part 515.

SA 2134. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 356, between lines 4 and 5, insert the following:

SEC. 408.(a) The division of the court shall release to the Congress and to the public not later than 60 days after the date of enactment of this Act all portions of the final report of the independent counsel of the investigation of Henry Cisneros made under section 594(h) of title 28, United States Code, except for any such portions that contain information of a personal nature that the division of the court determines the disclosure of which would cause a clearly unwarranted invasion of privacy that outweighs the public interest in a full accounting of this investigation. Upon the release of the final report, the final report shall be published pursuant to section 594(h)(3) of title 28, United States Code.

(b)(1) After the release and publication of the final report referred to in subsection (a), the independent counsel shall continue his office only to the extent necessary and appropriate to perform the noninvestigative and nonprosecutorial tasks remaining of his statutory duties as required to conclude the functions of his office.

(2) The duties referred to in paragraph (1) shall specifically include—

(A) the evaluation of claims for attorney fees, pursuant to section 593(l) of title 28, United States Code;

(B) the transfer of records to the Archivist of the United States pursuant to section 594(k) of title 28, United States Code;

(C) compliance with oversight obligations pursuant to section 595(a) of title 28, United States Code; and

(D) preparation of statements of expenditures pursuant to section 595(c) of title 28, United States Code.

(3) Upon completion of his remaining statutory duties, the independent counsel shall move the division of the court to terminate his office.

SA 2135. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 244, between lines 8 and 9, insert the following:

SEC. 122.(a) The Secretary of Transportation shall conduct a study regarding—

(1) Federal and State efforts to waive or relax truck weight and length requirements on highways within the Eisenhower Interstate System, including the timing of such waivers, during the response to Hurricane Katrina and other emergencies;

(2) the extent to which differing regulatory responses by States confused first responders and other aid providers during the response to Hurricane Katrina and other emergencies;

(3) the extent of the Secretary of Transportation's authority to waive or relax truck weight and length requirements on highways in the Eisenhower Interstate System; and

(4) the need for the authority described in paragraph (3) in the event of an emergency.

(b) Not later than 90 days after the date of enactment of this Act, the Secretary of Transportation shall submit a report to Congress that contains—

(1) the results of the study conducted under subsection (a);

(2) recommendations regarding the appropriate extent and form of the waiver authority described in subsection (a)(3) in the event of an emergency; and

(3) proposed legislation to provide such authority.

SA 2136. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 436, between lines 10 and 11, insert the following:

SEC. ____. None of the funds made available by this Act shall be used to enter into any lease for a facility under the jurisdiction of the General Services Administration unless the Administrator of General Services first submits to Congress a report demonstrating that the life of the lease would cost less than the full and total costs of each considered option.

SA 2137. Mr. COLEMAN (for himself, Mr. LEVIN, and Mr. AKAKA) submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 406, between lines 7 and 8, insert the following:

SEC. 724. PAYMENTS TO FEDERAL CONTRACTORS WITH FEDERAL TAX DEBT.

The General Services Administration, in conjunction with the Financial Management Service, shall develop procedures to subject purchase card payments to Federal contractors to the Federal Payment Levy Program.

SEC. 520. REPORTING OF AIR TRAVEL BY FEDERAL GOVERNMENT EMPLOYEES.

(a) ANNUAL REPORTS REQUIRED.—The Administrator of General Services shall submit annually to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives a report on all first class and business class travel by employees of each agency undertaken at the expense of the Federal Government.

(b) CONTENT.—The reports submitted pursuant to subsection (a) shall include, at a minimum, with respect to each travel by first class or business class—

(1) the names of each traveler;

(2) the date of travel;

(3) the points of origination and destination;

(4) the cost of the first class or business class travel; and

(5) the cost difference between such travel and travel by coach class fare available under contract with the General Services Administration or, if no contract is available, the lowest coach class fare available.

(c) AGENCY DEFINED.—In this section, the term ''agency'' has the meaning given such term in section 5701(1) of title 5, United States Code.

SA 2138. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 311, line 15, strike ''in accordance'' and all that follows through ''Act'' on line 17.

SA 2139. Mr. BOND (for Mrs. BOXER) proposed an amendment to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; as follows:

On page 219, line 5, strike the period and insert the following: '': *Provided further*, That the Secretary of Transportation, in consultation with the Secretary of Health and Human Services and the Administrator of the Federal Aviation Administration, not later than 60 days after the date of enactment of this Act, shall establish procedures with airport directors located at United States airports that have incoming flights from any country that has had cases of avian flu and with air carriers that provide such flights to deal with situations where a passenger on one of the flights has symptoms of avian flu .''.

SA 2140. Mr. BOND (for Ms. STABENOW) submitted an amendment intended to be proposed by Mr. BOND to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; as follows:

On page 316, line 26, after ''Provided,'' insert ''That of the amount made available under this heading, $10,000,000 shall be made available to carry out section 203 of Public Law 108–186,''.

SA 2141. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; as follows:

At the appropriate place, insert the following: Page 406, line 8 insert a new paragraph.

Sec. 724. The United States Interagency Council on Homelessness shall conduct an assessment of the guidance disseminated by the Department of Education, the Department of Housing and Urban Development, and other related federal agencies for grantees of homeless assistance programs on whether such guidance is consistent with and does not restrict the exercise of education rights provided to parents, youth, and children under subtitle B of title VII of the McKinney-Vento Act: *Provided*, That such assessment shall address whether the practices, outreach, and training efforts of said agencies serve to protect and advance such rights: *Provided further*, That the Council shall submit to the House and Senate Committees on Appropriations an interim report by May 1, 2006, and a final report by September 1, 2006.

SA 2142. Mr. MCCONNELL (for Mr. ENZI) proposed an amendment to the bill H.R. 3204, to amend title XXVII of the Public Health Service Act to extend Federal funding for the establishment and operation of State high risk health insurance pools; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''State High Risk Pool Funding Extension Act of 2005''.

SEC. 2. EXTENSION OF FUNDING FOR OPERATION OF STATE HIGH RISK HEALTH INSURANCE POOLS.

Section 2745 of the Public Health Service Act (42 U.S.C. 300gg–45) is amended to read as follows:

''SEC. 2745. RELIEF FOR HIGH RISK POOLS.

''(a) SEED GRANTS TO STATES.—The Secretary shall provide from the funds appropriated under subsection (d)(1)(A) a grant of up to $1,000,000 to each State that has not created a qualified high risk pool as of the date of enactment of the State High Risk Pool Funding Extension Act of 2005 for the State's costs of creation and initial operation of such a pool.

''(b) GRANTS FOR OPERATIONAL LOSSES.—

''(1) IN GENERAL.—In the case of a State that has established a qualified high risk pool that—

''(A) restricts premiums charged under the pool to no more than 200 percent of the premium for applicable standard risk rates;

''(B) offers a choice of two or more coverage options through the pool; and

''(C) has in effect a mechanism reasonably designed to ensure continued funding of losses incurred by the State in connection with operation of the pool after the end of the last fiscal year for which a grant is provided under this paragraph;

the Secretary shall provide, from the funds appropriated under paragraphs (1)(B)(i) and (2)(A) of subsection (d) and allotted to the State under paragraph (2), a grant for the losses incurred by the State in connection with the operation of the pool.

''(2) ALLOTMENT.—Subject to paragraph (4), the amounts appropriated under paragraphs (1)(B)(i) and (2)(A) of subsection (d) for a fiscal year shall be allotted and made available to the States (or the entities that operate the high risk pool under applicable State law) that qualify for a grant under paragraph (1) as follows:

''(A) An amount equal to 40 percent of such appropriated amount for the fiscal year shall be allotted in equal amounts to each qualifying State that is one of the 50 States or the District of Columbia and that applies for a grant under this subsection.

''(B) An amount equal to 30 percent of such appropriated amount for the fiscal year shall be allotted among qualifying States that apply for such a grant so that the amount allotted to such a State bears the same ratio to such appropriated amount as the number of uninsured individuals in the State bears to the total number of uninsured individuals (as determined by the Secretary) in all qualifying States that so apply.

''(C) An amount equal to 30 percent of such appropriated amount for the fiscal year shall be allotted among qualifying States that apply for such a grant so that the amount allotted to a State bears the same ratio to such appropriated amount as the number of individuals enrolled in health care coverage through the qualified high risk pool of the State bears to the total number of individuals so enrolled through qualified high risk pools (as determined by the Secretary) in all qualifying States that so apply.

''(3) SPECIAL RULE FOR POOLS CHARGING HIGHER PREMIUMS.—In the case of a qualified high risk pool of a State which charges premiums that exceed 150 percent of the premium for applicable standard risks, the State shall use at least 50 percent of the amount of the grant provided to the State to carry out this subsection to reduce premiums for enrollees.

''(4) LIMITATION FOR TERRITORIES.—In no case shall the aggregate amount allotted and made available under paragraph (2) for a fiscal year to States that are not the 50 States or the District of Columbia exceed $1,000,000.

''(c) BONUS GRANTS FOR SUPPLEMENTAL CONSUMER BENEFITS.—

''(1) IN GENERAL.—In the case of a State that is one of the 50 States or the District of Columbia, that has established a qualified high risk pool, and that is receiving a grant under subsection (b)(1), the Secretary shall provide, from the funds appropriated under paragraphs (1)(B)(ii) and (2)(B) of subsection (d) and allotted to the State under paragraph (3), a grant to be used to provide supplemental consumer benefits to enrollees or potential enrollees (or defined subsets of such enrollees or potential enrollees) in qualified high risk pools.

''(2) BENEFITS.—A State shall use amounts received under a grant under this subsection to provide one or more of the following benefits:

''(A) Low-income premium subsidies.

''(B) A reduction in premium trends, actual premiums, or other cost-sharing requirements.

''(C) An expansion or broadening of the pool of individuals eligible for coverage, such as through eliminating waiting lists, increasing enrollment caps, or providing flexibility in enrollment rules.

''(D) Less stringent rules, or additional waiver authority, with respect to coverage of pre-existing conditions.

''(E) Increased benefits.

''(F) The establishment of disease management programs.

''(3) ALLOTMENT; LIMITATION.—The Secretary shall allot funds appropriated under paragraphs (1)(B)(ii) and (2)(B) of subsection (d) among States qualifying for a grant under paragraph (1) in a manner specified by the Secretary, but in no case shall the amount so allotted to a State for a fiscal year exceed 10 percent of the funds so appropriated for the fiscal year.

''(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit a State that, on the date of the enactment of the State High Risk Pool Funding Extension Act of 2005, is in the process of implementing a program to provide benefits of the type described in paragraph (2), from being eligible for a grant under this subsection.

''(d) FUNDING.—

''(1) APPROPRIATION FOR FISCAL YEAR 2006.—There are authorized to be appropriated and there are appropriated for fiscal year 2006—

''(A) $15,000,000 to carry out subsection (a); and

''(B) $75,000,000, of which, subject to paragraph (4)—

''(i) two-thirds of the amount appropriated shall be made available for allotments under subsection (b)(2); and

''(ii) one-third of the amount appropriated shall be made available for allotments under subsection (c)(3).

''(2) AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEARS 2007 THROUGH 2010.—There are authorized to be appropriated $75,000,000 for each of fiscal years 2007 through 2010, of which, subject to paragraph (4)—

''(A) two-thirds of the amount appropriated for a fiscal year shall be made available for allotments under subsection (b)(2); and

''(B) one-third of the amount appropriated for a fiscal year shall be made available for allotments under subsection (c)(3).

''(3) AVAILABILITY.—Funds appropriated for purposes of carrying out this section for a fiscal year shall remain available for obligation through the end of the following fiscal year.

''(4) REALLOTMENT.—If, on June 30 of each fiscal year for which funds are appropriated under paragraph (1)(B) or (2), the Secretary determines that all the amounts so appropriated are not allotted or otherwise made available to States, such remaining amounts shall be allotted and made available under subsection (b) among States receiving grants under subsection (b) for the fiscal year based upon the allotment formula specified in such subsection.

''(5) NO ENTITLEMENT.—Nothing in this section shall be construed as providing a State with an entitlement to a grant under this section.

''(e) APPLICATIONS.—To be eligible for a grant under this section, a State shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

''(f) ANNUAL REPORT.—The Secretary shall submit to Congress an annual report on grants provided under this section. Each such report shall include information on the distribution of such grants among States and the use of grant funds by States.

''(g) DEFINITIONS.—In this section:

''(1) QUALIFIED HIGH RISK POOL.—

''(A) IN GENERAL.—The term 'qualified high risk pool' has the meaning given such term in section 2744(c)(2), except that a State may elect to meet the requirement of subparagraph (A) of such section (insofar as it requires the provision of coverage to all eligible individuals) through providing for the enrollment of eligible individuals through an acceptable alternative mechanism (as defined for purposes of section 2744) that includes a high risk pool as a component.

''(2) STANDARD RISK RATE.—The term 'standard risk rate' means a rate—

''(A) determined under the State high risk pool by considering the premium rates charged by other health insurers offering health insurance coverage to individuals in the insurance market served;

''(B) that is established using reasonable actuarial techniques; and

''(C) that reflects anticipated claims experience and expenses for the coverage involved.

''(3) STATE.—The term 'State' means any of the 50 States and the District of Columbia and includes Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.''.

SA 2143. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

TITLE XX___—NATURAL DISASTER OIL AND GAS PRICE GOUGING PREVENTION ACT OF 2005

SEC. __01. SHORT TITLE.

This title may be cited as the ''Natural Disaster Oil and Gas Price Gouging Prevention Act of 2005''.

SEC. __02. DEFINITIONS.

In this title:

(1) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(2) QUALIFYING NATURAL DISASTER DECLARATION.—The term ''qualifying natural disaster declaration'' means—

(A) a natural disaster declared by the Secretary under section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)); or

(B) a major disaster or emergency designated by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

SEC. __03. RESTRICTION ON PRICE GOUGING.

(a) RESTRICTIONS.—It shall be unlawful in the United States during the period of a qualifying natural disaster declaration in the United States to increase the price of any oil or gas product more than 15 percent above the price of that product immediately prior to the declaration unless the increase in the amount charged is attributable to additional costs incurred by the seller or national or international market trends.

(b) ENFORCEMENT.—

(1) ENFORCEMENT POWERS.—

(A) IN GENERAL.—The Commission shall enforce this section as part of its duties under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(B) REPORTING OF VIOLATIONS.—For purposes of the enforcement of this section, the Commission shall establish procedures to permit the reporting of violations of this section to the Commission, including appropriate links on the Internet website of the Commission and the use of a toll-free telephone number for such purposes.

(2) PENALTY.—

(A) CRIMINAL PENALTY.—A violation of this section shall be deemed a felony and a person, upon conviction of a violation of this section, shall be punished by fine not exceeding $10,000,000 if a corporation, or, if any other person, $350,000, or by imprisonment not exceeding 3 years, or both.

(B) CIVIL PENALTY.—The Commission may impose a civil penalty not to exceed $5,000 for each violation of this section. For purposes of this subparagraph, each day of violation shall constitute a separate offense. Civil penalties under this subparagraph shall not exceed amounts provided in subparagraph (A).

(c) ACTION BY STATE ATTORNEY GENERAL.—The attorney general of a State may bring a civil action for a violation of this section pursuant to section 4C of the Clayton Act (15 U.S.C. 15c).

(d) This section becomes effective 1 day after enactment.

SA 2144. Mr. CORZINE submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 252, between lines 11 and 12, insert the following: ''*Provided further,* That the Corporation shall not create a wholly owned Northeast Corridor subsidiary or transfer the Northeast Corridor infrastructure into such subsidiary unless such activities are specifically authorized by an Act of Congress:''.

SA 2145. Mr. LAUTENBERG (for himself and Mr. LOTT) submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 250, line 9, beginning with ''expended:'' strike through line 17 on page 252 and insert ''expended.''.

SA 2146. Mr. ENSIGN (for himself, Mr. ALLEN, and Mr. DEMINT) submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 293, after line 25, add the following:

SEC. _____. The Internal Revenue Service shall provide taxpayers with free individual tax electronic preparation and filing services only through the Free File program and the Internal Revenue Service's Taxpayer Assistance Centers and Volunteer Income Tax Assistance program.

SA 2147. Mr. DEWINE submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 244, line 17, insert ''of which $13,679,000 shall be for the 'New Car Assessment Program' (including $6,000,000, which shall remain available until September 30, 2007) and $1,000,000 shall be for the 'Vehicle Crash Causation Study':'' after ''Highway Trust Fund''.

SA 2148. Mr. PRYOR submitted an amendment intended to be proposed by him to the bill H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 276, after line 24, insert the following:

SEC. 1___. Section 127(a) of title 23, United States Code, is amended by adding at the end the following:

''(13) ARKANSAS.—During the period beginning on the date of enactment of this paragraph and ending on September 30, 2009, the State of Arkansas may allow the operation of vehicles with a gross vehicle weight of up to 80,000 pounds for the hauling of cotton seed on Interstate Route 555 during the months of August through December to cross the St. Francis Floodway from Marked Tree to Payneway, when that route is open to traffic.''.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will be held on Thursday, October 27, 2005 at 10 a.m. in room SD–366 of the Dirksen Senate Office Building.

The purpose of this hearing is to receive testimony from the Administration on hurricane recovery efforts related to energy and to discuss energy policy.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150.

For further information, please contact Lisa Epifani 202–224–5269 or Shannon Ewan at 202–224–7555.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will be held on Thursday, November 3, 2005 at 10 a.m. in Room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to evaluate and receive a status report on the Environmental Management Programs of the Department of Energy.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150.

For further information, please contact Clint Williamson 202–224–7556 or Steve Waskiewicz at 202–228–6195.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. BOND. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition and Forestry be authorized to conduct a business meeting during the session of the Senate on Wednesday, October 19, 2005 at 10 a.m. in SR–328A, Russell Senate Office Building. The purpose of this meeting will be to consider an original bill to comply with the Committee's reconciliation instructions as contained in H. Con. Res. 95.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BOND. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, October 19 at 10 a.m.

The purpose of this meeting is to consider reconciliation legislation and any other pending calendar business which may be ready for consideration.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. BOND. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, October 19, 2005, at 10 a.m. to hold a hearing on Iraq in U.S. Foreign Policy.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. BOND. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, October 19, 2005, at 2:30 p.m. to hold a hearing on Nominations.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. BOND. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions, Subcommittee on Employment and Workplace Safety, be authorized to hold a hearing during the session of the Senate on Wednesday, October 19th, at 2 p.m. in SD–430.

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

COMMITTEE ON THE JUDICIARY

Mr. BOND. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on ''Reporters' Privilege Legislation: An Additional Investigation of Issues and Implications'' on Wednesday, October 19, 2005 at 10:30 a.m. in the Dirksen Senate Office Building Room 226.

Witness List

Panel I: Chuck Rosenberg, United States Attorney for the Southern District of Texas, on behalf of the United States Department of Justice Houston, TX.

Panel II: Judith Miller, Investigative Reporter and Senior Writer, The New York Times, New York, NY; David Westin, President, ABC News, New York, NY; Joseph E. diGenova, Founding Partner, diGenova & Toensing LLP, Washington, DC; Anne Gordon, Managing Editor, Philadelphia Inquirer, Philadelphia, PA; Dale Davenport, Editorial Page Editor, The Patriot-News, Harrisburg, PA; and Steven D. Clymer, Professor of Law, Cornell Law School Myron Taylor Hall, Ithaca, NY.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. BOND. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on October 19, 2005, at 2:30 p.m. to hold a closed briefing.

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

SUBCOMMITTEE ON ANTITRUST, COMPETITION POLICY AND CONSUMER RIGHTS

Mr. BOND. Mr. President, I ask unanimous consent that the Subcommittee on Antitrust, Competition Policy and Consumer Rights be authorized to meet on Wednesday, October 19, 2005, to conduct a hearing on ''Video Competition in 2005—More Consolidation, or New Choices for Consumers?'' at 2 p.m. in Room 226 of the Dirksen Senate Office Building.

Witness List

Mr. Glenn Britt, Chairman and CEO, Time Warner Cable, Stamford; CT; Mr. Kyle McSlarrow, President and CEO, NCTA, Washington, DC; Mr. Walter McCormick, Jr., President and CEO, United States Telecom Association, Washington, DC; Mr. Doron Gorshein, President and CEO, The America Channel, LLC, Heathrow, FL; Mr. Peter Aquino, President and CEO, RCN Corporation, Herndon, VA; Mr. Scott Cleland, Chief Executive Officer, Precursor, Washington, DC; and Dr. Mark Cooper, Director of Research, Consumer Federation of America, Washington, DC.

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

PRIVILEGE OF THE FLOOR

Mr. ALLARD. Mr. President, I ask unanimous consent that Sam Tatevosyan of my staff be given floor privileges for the duration of morning business today.

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

Mr. HARKIN. I ask unanimous consent that Cathy Poon of my staff be granted the privilege of the floor for the duration of this debate.

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

Mrs. CLINTON. Mr. President, I ask unanimous consent for floor privileges for a fellow in my office, Chelsea Maughan.

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

AUTHORITY TO SIGN ENROLLED BILLS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that during the adjournment of the Senate, the majority leader and the junior Senator from Oklahoma be authorized to sign duly enrolled bills.

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

MEDICARE COST SHARING AND WELFARE EXTENSION ACT OF 2005

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Chair now lay before the Senate the House message to accompany H.R. 3971.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

H.R. 3971

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 3971) entitled ''An Act to provide assistance to individuals and States affected by Hurricane Katrina'', with House amendments to Senate amendments.

Mr. MCCONNELL. I ask unanimous consent that the Senate concur in the House amendments, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

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

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the Democratic Leader, pursuant to Public Law 109–59, Sec. 1909(b)(2)(A)(vi), appoints the following individuals to serve as members of the National Surface Transportation Policy and Revenue Study Commission: Francis McArdle of New York and Tom R. Shancke of Nevada.

PARTICIPATION OF JUDICIAL BRANCH EMPLOYEES IN FEDERAL LEAVE TRANSFER PROGRAM

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 227, S. 1736.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1736) to provide for the participation of employees in the judicial branch in the Federal leave transfer program for disasters and emergencies.

There being no objection, the Senate proceeded to consider the bill.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

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

The bill (S. 1736) was read the third time and passed, as follows:

S. 1736

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

SECTION 1. LEAVE TRANSFER PROGRAM IN DISASTERS AND EMERGENCIES.

Section 6391 of title 5, United States Code, is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following:

''(f) After consultation with the Administrative Office of the United States Courts, the Office of Personnel Management shall provide for the participation of employees in the judicial branch in any emergency leave transfer program under this section.''.

SUPPORTING THE GOALS AND IDEALS OF LIGHTS ON AFTER-SCHOOL

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 280 which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 280) supporting ''Lights on Afterschool,'' a national celebration of after school programs.

There being no objection, the Senate proceeded to consider the resolution.

Mr. MCCONNELL. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 280) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 280

Whereas high quality after school programs provide safe, challenging, engaging, and fun learning experiences to help children and youth develop their social, emotional, physical, cultural, and academic skills;

Whereas high quality after school programs support working families by ensuring that the children in such families are safe and productive after the regular school day ends;

Whereas high quality after school programs build stronger communities by involving the Nation's students, parents, business leaders, and adult volunteers in the lives of the Nation's youth, thereby promoting positive relationships among children, youth, families, and adults;

Whereas high quality after school programs engage families, schools, and diverse community partners in advancing the well-being of the Nation's children;

Whereas ''Lights On Afterschool!'', a national celebration of after school programs held on October 20, 2005, promotes the critical importance of high quality after school programs in the lives of children, their families, and their communities;

Whereas more than 28,000,000 children in the United States have parents who work outside the home and 14,300,000 children in the United States have no place to go after school; and

Whereas many after school programs across the United States are struggling to keep their doors open and their lights on: Now, therefore, be it

Resolved That the Senate supports the goals and ideals of ''Lights On Afterschool!'' a national celebration of after school programs.

HONORING AND THANKING JAMES PATRICK ROHAN

Mr. MCCONNELL. Mr. President, I ask unanimous consent the Senate now proceed to the consideration of S. Res. 281 which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 281) honoring and thanking James Patrick Rohan.

There being no objection, the Senate proceeded to consider the resolution.

Mr. MCCONNELL. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 281) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

Whereas Assistant Chief of Police James Patrick Rohan, a native of the State of Maryland, has served the United States Capitol Police for thirty (30) years with distinction, having been appointed as a Private on December 8, 1975;

Whereas Assistant Chief Rohan, having risen through the ranks to his current position over his longstanding career, has been instrumental in a variety of initiatives designed to enhance the security of the Congress;

Whereas Assistant Chief Rohan, who holds a Master of Science Degree in Justice/Law Enforcement from the American University and a Bachelor of Arts Degree in Law Enforcement from the University of Maryland, as well as numerous specialized law enforcement and security training accomplishments and honors: Now, therefore, be it

Resolved, That the Senate hereby honors and thanks James Patrick Rohan and his wife, Cecilia, and children, Ben, Natalie, Eric and David, and his entire family, for a lifelong professional commitment of service to the United States Capitol Police and the United States Congress.

FAIR ACCESS FOSTER CARE ACT OF 2005

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 1894 introduced earlier today.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1894) to amend part E of title IV of the Social Security Act to provide for the making of foster care maintenance payments to private for-profit agencies.

There being no objection, the Senate proceeded to consider the bill.

Mr. INHOFE. Mr. President, I rise today in support of the Fair Access Foster Care Act of 2005.

Therapeutic foster care is foster care for children with special medical, psychological, emotional, and social needs. These children need comprehensive support and attention, requiring a great deal of commitment and sacrifice from foster care parents.

Prior to the placement of a child, a potential therapeutic foster care parent must complete a certification process that involves a background check, a training program, and at least two home studies.

At Choices for Life Foster Care, Inc., a for-profit provider in Oklahoma City, counselors are in the home a minimum of 2 hours every other week once a child has been placed.

Generally therapeutic foster care children are not permitted to attend daycare and require ''line of sight'' supervision. That is, therapeutic foster care children must be in view of the foster parents at all times, except when attending school and other approved activities.

Recruiting parents to provide therapeutic foster care is a never-ending job. There are always children waiting for a match to be found. Therapeutic foster care children stay in crisis shelters for the transition period, adding a great deal of stress to their lives.

Each State has a different standard for determining whether children need therapeutic foster care. Once a child is identified, most State governments contract with private agencies to place the child in a home.

In my State of Oklahoma, fifteen agencies contract with the State government to provide therapeutic foster care services. Of those 15 agencies, 5 operate under a for-profit status, 10 operate under a nonprofit status. The bottom line is that 62 percent of therapeutic foster care children are managed by for-profit agencies, and we must maintain the availability of care for these children.

Therapeutic foster care agencies receive funding from Medicaid and Title IV–E maintenance payments from the United States Department of Health and Human Service, HHS. The 1996 Welfare Reauthorization Act attempted to correct a discrepancy between treatment of children managed by for-profit agencies and by nonprofit agencies via removing the word ''nonprofit'' from title 42 of the United States Social Security Code. Unfortunately, the deletion was only made in one of the three sections addressing this issue, thus causing therapeutic foster care agencies to remain subjected to arbitrary regulation.

Only recently was it brought to the attention of Oklahoma's Department of Human Services that additional legal changes were needed. Most State governments face the same problem.

My bill amends the United States Code to allow all therapeutic foster care agencies to receive maintenance payments from the United States Department of Health and Human Services.

The Congressional Budget Office has indicated that any costs associated with this legislation would be insignificant.

There are over 500,000 children in foster care today. A large number of these children require therapeutic care. The business model of for-profit agencies should not prohibit Title IV–E maintenance cost reimbursement. Now is not the time to prevent highly qualified agencies from placing these children in safe homes.

I have long been dedicated to quality care for my constituents in Oklahoma and across America. My bill to help alleviate the flu vaccine shortage, my

work to expand access to life-saving cardiac defibrillators, and my bill to freeze the Federal medical assistance percentage for 10 years to ensure that States continue to receive adequate Federal funding highlight this commitment.

I thank Mr. ROCKEFELLER, Mr. CRAIG, and Ms. LANDRIEU for cosponsoring this bill.

Please join me in supporting this bill to assist on out States in the endeavor to serve these five-hundred-thousand-plus vulnerable children.

Mr. MCCONNELL. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The bill (S. 1894) was read the third time and passed, as follows:

S. 1894

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 ''Fair Access Foster Care Act of 2005''.

SEC. 2. FOSTER CARE MAINTENANCE PAYMENTS TO PRIVATE FOR-PROFIT AGENCIES.

Section 472(b) of the Social Security Act (42 U.S.C. 672(b)) is amended by striking ''nonprofit'' each place it appears.

STATE HIGH RISK POOL FUNDING EXTENSION ACT OF 2005

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 181, H. R. 3204.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H. R. 3204) to amend title XXVII of the Public Health Service Act to extend Federal funding for the establishment and operation of State high risk health insurance pools.

There being no objection, the Senate proceeded to consider the bill.

Mr. ENZI. Mr. President, I am pleased today to bring to the floor an amendment to H.R. 3204, The State High Risk Pool Funding Extension Act of 2005. The Senate companion, S. 288, sponsored by Senators GREGG and BAUCUS, was approved unanimously in February by the Health, Education, Labor, and Pensions Committee. A similar bill also unanimously passed the full Senate in the last Congress.

The amendment to H. R. 3204 that I bring before us today reflects much careful and bipartisan work, not only within the Senate, but with the House as well. After we pass this amendment and send it to the House, I expect our colleagues in that Chamber will approve it quickly, thus paving the way for a swift trip to the President's desk and into law.

This legislation extends and makes improvements in the Federal Health Insurance High Risk Pool Grant Program originally enacted in 2002 as part of the Trade Adjustment Assistance Reform Act, TAA. This grant program provides critical assistance States both for the start-up of new risk pools and for the continued operation of existing ones.

State high risk pools are State-created nonprofit entities that provide access to health insurance for persons who are not covered under an employer plan or a government program, and whose medical profile makes it very difficult or impossible for them to find coverage in the individual insurance market.

These individuals are often the sickest and most vulnerable among us, and who, without access to high risk pools would otherwise fall through the cracks and be forced to bankrupt themselves onto the Medicaid rolls.

Nearly 200,000 people have purchased health insurance policies through high risk pools nationwide. In my home State of Wyoming more than 650 people have comprehensive health insurance thanks to the Wyoming Health Insurance Pool.

This insurance covers doctor visits, prescription drugs, home health visits, rehabilitation services, mental health, physical therapy, and maternity care. It is meaningful insurance coverage for people who would otherwise be uninsurable.

Under these programs, individuals pay capped premiums for their coverage, but such premiums generally cover only 50 to 60 percent of the total cost of their care. The rest of the expense must be made up by other revenues, typically through an annual assessment of insurance companies.

The current Federal Risk Pool Grant Program authorized up to $40 million annually to help existing State high risk pools ease the steep losses requiring subsidies that they incur in these programs each year. Last year alone, total combined losses in State risk pools was more than $539 billion, an increase of 12 percent over the previous year.

The legislation before us today would increase authorization for grants to existing risk pool programs from $40 million to $75 million per year through 2009. It would also extend through 2006 authorization for $15 million annually for seed grants to States without risk pools that wish to establish them. Under this program, States would be eligible for grants of up to $1 million for the creation and initial operation of a risk pool.

It is critical that Congress act swiftly on this important bill. Authorization for the current grant program expired at the end of fiscal year 2004, and all remaining funds will be exhausted upon the expiration of fiscal year 2005. Moreover, many State legislatures are assessing whether or not to move ahead with risk pool programs. Passage of this legislation would send to the States a strong signal of continued and renewed Federal commitment to such programs.

In addition to extending and increasing authorization for Federal grant assistance, our legislation also makes a certain targeted improvements in how the Federal risk pool grants operate. For example, the bill would allow States a greater degree of flexibility in how they apply Federal grant dollars to their risk pool programs, and in the requirements for qualifying for grants. In part, this greater flexibility is an acknowledgement that State programs do vary and that a number of States are experimenting with new and innovative approaches in how they set up and administer their risk pool programs—approaches that in some cases may not fit easily into the Federal grant parameters as they are currently drafted.

The legislation also makes some adjustments in the way grant funds are allocated, such that each State will now receive a sufficient incentive to establish or improve its high risk pool. At the same time, the revised allocation system recognizes that some states have greater numbers of uninsured than others, and provides extra assistance to States that operate the largest risk pools.

The bill also includes a new bonus pool that can be tapped by States to offer lower premiums or improved benefits in connection with their high-risk pool, rather than requiring that all funds go to help defray operational losses. Up to one third of State's annual grant award could be used for this purpose.

The legislation before us today is the same as that which drew unanimous and bipartisan support in our committee, both in this Congress and the last. It would extend and improve a program that has helped thousands of medically vulnerable Americans maintain lifesaving health coverage and avoid potentially devastating financial ruin. It is an important part of this Congress's comprehensive efforts to make health care and health insurance more affordable and accessible for everyone.

I commend Senators GREGG and BAUCUS for their effective leadership on this important legislation, and to our committee's ranking member, Senator KENNEDY, for his hard work and commitment. I urge all of my colleagues to join me in giving this much needed legislation our full support.

Finally, credit should go as well to a number of current and past Senate staff, some of whom have worked for several years to bring this bill to fruition. We greatly appreciate the work of many, including David Bowen, David Fisher, Kim Monk, Stephen Northrup, Andrew Patzman, Stacey Sachs, Conwell Smith, and Vince Ventimiglia.

I urge the Senate to give this much needed legislation the strong support it deserves.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Enzi amendment at the desk be agreed to, the bill, as amended, be read a third

time and passed, the motions to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 2142) was agreed to, as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''State High Risk Pool Funding Extension Act of 2005''.

SEC. 2. EXTENSION OF FUNDING FOR OPERATION OF STATE HIGH RISK HEALTH INSURANCE POOLS.

Section 2745 of the Public Health Service Act (42 U.S.C. 300gg–45) is amended to read as follows:

''SEC. 2745. RELIEF FOR HIGH RISK POOLS.

''(a) SEED GRANTS TO STATES.—The Secretary shall provide from the funds appropriated under subsection (d)(1)(A) a grant of up to $1,000,000 to each State that has not created a qualified high risk pool as of the date of enactment of the State High Risk Pool Funding Extension Act of 2005 for the State's costs of creation and initial operation of such a pool.

''(b) GRANTS FOR OPERATIONAL LOSSES.—

''(1) IN GENERAL.—In the case of a State that has established a qualified high risk pool that—

''(A) restricts premiums charged under the pool to no more than 200 percent of the premium for applicable standard risk rates;

''(B) offers a choice of two or more coverage options through the pool; and

''(C) has in effect a mechanism reasonably designed to ensure continued funding of losses incurred by the State in connection with operation of the pool after the end of the last fiscal year for which a grant is provided under this paragraph;

the Secretary shall provide, from the funds appropriated under paragraphs (1)(B)(i) and (2)(A) of subsection (d) and allotted to the State under paragraph (2), a grant for the losses incurred by the State in connection with the operation of the pool.

''(2) ALLOTMENT.—Subject to paragraph (4), the amounts appropriated under paragraphs (1)(B)(i) and (2)(A) of subsection (d) for a fiscal year shall be allotted and made available to the States (or the entities that operate the high risk pool under applicable State law) that qualify for a grant under paragraph (1) as follows:

''(A) An amount equal to 40 percent of such appropriated amount for the fiscal year shall be allotted in equal amounts to each qualifying State that is one of the 50 States or the District of Columbia and that applies for a grant under this subsection.

''(B) An amount equal to 30 percent of such appropriated amount for the fiscal year shall be allotted among qualifying States that apply for such a grant so that the amount allotted to such a State bears the same ratio to such appropriated amount as the number of uninsured individuals in the State bears to the total number of uninsured individuals (as determined by the Secretary) in all qualifying States that so apply.

''(C) An amount equal to 30 percent of such appropriated amount for the fiscal year shall be allotted among qualifying States that apply for such a grant so that the amount allotted to a State bears the same ratio to such appropriated amount as the number of individuals enrolled in health care coverage through the qualified high risk pool of the State bears to the total number of individuals so enrolled through qualified high risk pools (as determined by the Secretary) in all qualifying States that so apply.

''(3) SPECIAL RULE FOR POOLS CHARGING HIGHER PREMIUMS.—In the case of a qualified high risk pool of a State which charges premiums that exceed 150 percent of the premium for applicable standard risks, the State shall use at least 50 percent of the amount of the grant provided to the State to carry out this subsection to reduce premiums for enrollees.

''(4) LIMITATION FOR TERRITORIES.—In no case shall the aggregate amount allotted and made available under paragraph (2) for a fiscal year to States that are not the 50 States or the District of Columbia exceed $1,000,000.

''(c) BONUS GRANTS FOR SUPPLEMENTAL CONSUMER BENEFITS.—

''(1) IN GENERAL.—In the case of a State that is one of the 50 States or the District of Columbia, that has established a qualified high risk pool, and that is receiving a grant under subsection (b)(1), the Secretary shall provide, from the funds appropriated under paragraphs (1)(B)(ii) and (2)(B) of subsection (d) and allotted to the State under paragraph (3), a grant to be used to provide supplemental consumer benefits to enrollees or potential enrollees (or defined subsets of such enrollees or potential enrollees) in qualified high risk pools.

''(2) BENEFITS.—A State shall use amounts received under a grant under this subsection to provide one or more of the following benefits:

''(A) Low-income premium subsidies.

''(B) A reduction in premium trends, actual premiums, or other cost-sharing requirements.

''(C) An expansion or broadening of the pool of individuals eligible for coverage, such as through eliminating waiting lists, increasing enrollment caps, or providing flexibility in enrollment rules.

''(D) Less stringent rules, or additional waiver authority, with respect to coverage of pre-existing conditions.

''(E) Increased benefits.

''(F) The establishment of disease management programs.

''(3) ALLOTMENT; LIMITATION.—The Secretary shall allot funds appropriated under paragraphs (1)(B)(ii) and (2)(B) of subsection (d) among States qualifying for a grant under paragraph (1) in a manner specified by the Secretary, but in no case shall the amount so allotted to a State for a fiscal year exceed 10 percent of the funds so appropriated for the fiscal year.

''(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit a State that, on the date of the enactment of the State High Risk Pool Funding Extension Act of 2005, is in the process of implementing a program to provide benefits of the type described in paragraph (2), from being eligible for a grant under this subsection.

''(d) FUNDING.—

''(1) APPROPRIATION FOR FISCAL YEAR 2006.—There are authorized to be appropriated and there are appropriated for fiscal year 2006—

''(A) $15,000,000 to carry out subsection (a); and

''(B) $75,000,000, of which, subject to paragraph (4)—

''(i) two-thirds of the amount appropriated shall be made available for allotments under subsection (b)(2); and

''(ii) one-third of the amount appropriated shall be made available for allotments under subsection (c)(3).

''(2) AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEARS 2007 THROUGH 2010.—There are authorized to be appropriated $75,000,000 for each of fiscal years 2007 through 2010, of which, subject to paragraph (4)—

''(A) two-thirds of the amount appropriated for a fiscal year shall be made available for allotments under subsection (b)(2); and

''(B) one-third of the amount appropriated for a fiscal year shall be made available for allotments under subsection (c)(3).

''(3) AVAILABILITY.—Funds appropriated for purposes of carrying out this section for a fiscal year shall remain available for obligation through the end of the following fiscal year.

''(4) REALLOTMENT.—If, on June 30 of each fiscal year for which funds are appropriated under paragraph (1)(B) or (2), the Secretary determines that all the amounts so appropriated are not allotted or otherwise made available to States, such remaining amounts shall be allotted and made available under subsection (b) among States receiving grants under subsection (b) for the fiscal year based upon the allotment formula specified in such subsection.

''(5) NO ENTITLEMENT.—Nothing in this section shall be construed as providing a State with an entitlement to a grant under this section.

''(e) APPLICATIONS.—To be eligible for a grant under this section, a State shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

''(f) ANNUAL REPORT.—The Secretary shall submit to Congress an annual report on grants provided under this section. Each such report shall include information on the distribution of such grants among States and the use of grant funds by States.

''(g) DEFINITIONS.—In this section:

''(1) QUALIFIED HIGH RISK POOL.—

''(A) IN GENERAL.—The term 'qualified high risk pool' has the meaning given such term in section 2744(c)(2), except that a State may elect to meet the requirement of subparagraph (A) of such section (insofar as it requires the provision of coverage to all eligible individuals) through providing for the enrollment of eligible individuals through an acceptable alternative mechanism (as defined for purposes of section 2744) that includes a high risk pool as a component.

''(2) STANDARD RISK RATE.—The term 'standard risk rate' means a rate—

''(A) determined under the State high risk pool by considering the premium rates charged by other health insurers offering health insurance coverage to individuals in the insurance market served;

''(B) that is established using reasonable actuarial techniques; and

''(C) that reflects anticipated claims experience and expenses for the coverage involved.

''(3) STATE.—The term 'State' means any of the 50 States and the District of Columbia and includes Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.''.

The bill (H. R. 3204), as amended, was read the third time and passed.

ORDERS FOR THURSDAY, OCTOBER 20, 2005

Mr. MCCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Thursday, October 20. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then resume consideration of H.R. 3058, the Transportation-Treasury appropriations bill.

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

PROGRAM

Mr. MCCONNELL. Mr. President, we have made substantial progress on the bill today. Tomorrow morning, when we return to the bill, we have several Senators prepared to offer amendments. I hope that we can debate and vote on those amendments with reasonable time agreements. There is a chance we can finish this bill tomorrow night, and the majority leader has indicated that if we wrap up the Transportation-Treasury bill tomorrow evening, we will not be voting on Friday. If we are able to do that, he will move on Friday to another bill, and we will not be having votes that day. Hopefully, that will be adequate incentive for all of us to finish our work on this particular bill no later than tomorrow night.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. MCCONNELL. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:55 p.m., adjourned until Thursday, October 20, 2005, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate October 19, 2005:

DEPARTMENT OF STATE

ANNE W. PATTERSON, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AN ASSISTANT SECRETARY OF STATE (INTERNATIONAL NARCOTICS AND LAW ENFORCEMENT AFFAIRS), VICE ROBERT B. CHARLES.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. LANCE L. SMITH, 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR REGULAR APPOINTMENT IN THE GRADES INDICATED AS CHAPLAINS IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

To be colonel

GARY L. GROSS, 0000

To be lieutenant colonel

NEAL J. BUCKON, 0000
MICHAEL J. CERRONE, 0000
FRANK R. SPENCER, 0000
VALERIE B. STJOHN, 0000
GARY R. STUDNIEWSKI, 0000
AVI S. WEIS, 0000

To be major

MARK N. AWDYKOWYZ, 0000
RICHARD J. BENDORF, 0000
JAMES R. BOULWARE, 0000
GARY W. BRAGG, 0000
JOEY T. BYRD, 0000
JOHN L. CONGDON, 0000
DOUGLAS C. FENTON, 0000
MICHAEL L. FRAILEY, 0000
RICHARD P. GRAVES, 0000
DAVID S. HARSDORF, 0000
JOSE G. HERRERA, 0000
TIMOTHY L. HUBBS, 0000
CARLOS C. HUERTA, 0000
PAUL K. HURLEY, 0000
DANIEL C. HUSSEY, 0000
JERALD P. JACOBS, 0000
STEVEN R. JERLES, 0000
EDWARD D. NORTHROP, 0000
JAMES E. ONEAL, 0000
MATTHEW P. PAWLIKOWSKI, 0000
PEKOLA F. ROBERTS, 0000
ADGER S. TURNER, 0000

EXTENSIONS OF REMARKS

CONGRATULATING CURT AND JUDY WIGGINS FOR WINNING THE MERITORIOUS SERVICE AWARD

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 2005

Mr. NEY. Mr. Speaker:

Whereas, Curt and Judy Wiggins have, without thought of reward, given of themselves to help the citizens of Jackson County on countless occasions; and

Whereas, Curt and Judy Wiggins have worked tirelessly with the American Cancer Society—Jackson County Unit; and

Whereas, Curt and Judy Wiggins have dedicated themselves to Jackson County through organizations too numerous to name here and through their work have uplifted all those whom they have come in contact.

Therefore, I join with family, friends and the entire 18th Congressional District of Ohio in congratulating Curt and Judy Wiggins for winning this prestigious award.

IN LASTING MEMORY OF PERRY CAMPBELL

HON. MIKE ROSS

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 2005

Mr. ROSS. Mr. Speaker, I rise today to honor the memory of a close personal friend of mine, Perry Campbell, the most prominent figure in the hospitality business in Hope, Arkansas for more than 50 years. He passed away on October 10, 2005 at a Texarkana hospital at the age of 77.

Perry led a life committed to public service. He was the namesake, a founding member, and eventually the mayor of Perrytown. He was founding member of Providence Memorial Baptist Church in Perrytown, a member of the Board of Directors of Hope-Hempstead County Chamber of Commerce and its 1994 Citizen of the Year, one of the founders of Hempstead County Ambulance Service and Perrytown Volunteer Fire Department. He also served on the Life Word Board and the Clinton Birthplace Foundation Board.

A successful entrepreneur, Perry began his business career as the proprietor of a single truck stop and eventually became the owner of Western Sizzlin' Restaurant, Dos Locos Gringos Restaurant, Best Western Motel and a Holiday Inn Express in Hope. Perry understood more than most the importance of changing with the times and his adaptability placed him in a league of his own. Western Sizzlin' Restaurant recently celebrated its 20th anniversary on Perry's 77th birthday, a day declared 'Perry Campbell Day!' by the City of Hope.

Some of my earliest and fondest memories growing up just outside of Hope are going to Perry's truck stop for dinner on Saturday nights with my parents. It was a genuine weekend treat. Back then, and up until a few months before Perry's death, part of the dining experience was seeing Perry at Western Sizzlin' as he would always make it a point to visit your table to ensure you were pleased with your meal. Perry understood the importance of the personal touch in the restaurant business.

For many people, Perry was the embodiment of the hospitality industry. Perhaps his most shining moment was when Perry was inducted into the Arkansas Hospitality Association Hall of Fame in 1996, after serving on the Arkansas Lodging Association Board and as its President from 1993–1994. He also received the Golden Key Award in 1995.

Perry was an exceptionally driven man with an entrepreneurial spirit second to none. He had an extraordinarily generous spirit, but never desired public recognition for his many contributions to the community. My heartfelt condolences go out to Perry's family, business associates, and the many people who join me in counting him as a friend. I have lost a true friend and will miss him, but his legacy will live on in Perrytown, Hope, and Arkansas for generations to come.

PAYING TRIBUTE TO DALE SHERWIN OF LANSING, MICHIGAN

HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 2005

Mr. ROGERS of Michigan. Mr. Speaker, I rise to honor the accomplishments of Dale Sherwin of Lansing, Michigan, who is retiring this month as the Michigan State Director for U.S. Department of Agriculture Rural Development.

Dale Sherwin has dedicated his career to improving the quality of life for America through its agricultural community and the citizens who work to feed America and the world.

Prior to starting his successful service with USDA Rural Development in April 2003, Dale worked six years for the Michigan Department of Agriculture, serving as director of agriculture policy and guiding policy on National Association of State Departments of Agriculture issues.

During the administrations of Presidents Nixon and Ford, Dale served in the U.S. Department of Agriculture: as chief legislative liaison to former Secretary Earl Butz; Deputy Assistant Secretary for International Affairs and Commodity Programs; and as assistant director of legislative affairs for the Foreign Agricultural Service. Dale also worked as a staff director for the U.S. Senate Committee on Agriculture, Nutrition and Forestry.

Prior to service in the U.S. Senate and USDA, Dale spent more than a decade working with the American Farm Bureau Federation and the Michigan Farm Bureau. His career in agriculture began as a farmer in Michigan's Genesee County. His degree in animal husbandry was earned at Michigan State University.

Dale's service at USDA Rural Development has proven to be a shining capstone for a career focused on the very mission the agency embodies: supporting increased economic opportunity and improved quality of life for rural American citizens. Across Michigan's counties and communities, his legacy will be realized long into the future. I am pleased to have worked with Dale, to call him friend, and to share his story with my Congressional colleagues.

Mr. Speaker, I ask my colleagues to join me in honoring this very special person, Dale Sherwin, a citizen and leader who is truly deserving of our respect and admiration.

HONORING DEPUTY ANTHONY ROBERT III

HON. CHARLES W. BOUSTANY, JR.

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 2005

Mr. BOUSTANY. Mr. Speaker, I rise today to recognize the great achievements of Deputy Anthony Robert III, of Opelousas, Louisiana.

In addition to his distinguished service as a Deputy Sheriff in Baton Rouge, Louisiana, Deputy Robert has also displayed an extraordinary athletic talent in track and field competition.

At the 2005 Louisiana Police and Fire Summer Games in Lafayette, Louisiana, Deputy Robert won three gold medals in the 100 meter dash, 200 meter dash, and javelin; as well as two silver medals in the shot put and the discus. His success continued this June during the Southeastern Police and Fire Championships, which took place in Birmingham, Alabama. There, Deputy Robert won a total of five gold medals in the following events: 100 meter dash, 200 meter dash, 400 meter dash, 4 x 100 meter relay, and the 110 meter hurdles.

Additionally, at the recent World Police and Fire Games, which took place this past summer in Quebec, Canada, Deputy Robert was awarded the bronze medal in the 110 meter high hurdles as well as a ranking of 4th in the world in the 400 meter hurdles.

I applaud Deputy Robert's achievements, not only as a dedicated law enforcement officer, but also as a great representative of the citizens of Louisiana on the field of competition.

CONGRATULATING THE JACKSON HIGH SCHOOL BAND FOR WINNING THE COMMUNITY PRIDE AWARD

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 2005

Mr. NEY. Mr. Speaker:

Whereas, the Jackson High School Band, with nearly 200 members, has for many years been the pride of Jackson County when they perform; and

Whereas, the Jackson High School Band represented Jackson in front of an international audience in Orlando, Florida and performed exceptionally; and

Whereas, Band Director Dick Berry had for 36 years helped to shape boys and girls into young men and women for the betterment of Jackson High School and Jackson County.

Therefore, I join with family, friends and the entire 18th Congressional District of Ohio in congratulating the Jackson High School Band for winning this prestigious award.

IN LASTING MEMORY OF JUDGE PAUL X. WILLIAMS, JR.

HON. MIKE ROSS

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 2005

Mr. ROSS. Mr. Speaker, I rise today to honor the memory of Judge Paul X. Williams, Jr. Judge Williams passed away after a tragic struggle with cancer on October 3, 2005 in Booneville, Arkansas at the age of 67.

After graduating from the University of Arkansas Law School, Judge Williams moved to Booneville and carried on the legacy of his father, dedicating his life to the law. Shortly after moving to Booneville, he was appointed Deputy Prosecuting Attorney for South Logan County. In 1975, he was elected to his first of two terms as the Prosecuting Attorney for the 15th Judicial District.

In 1979, Judge Williams was named the City Attorney of Booneville and continued to serve in this capacity until 1990, when he was elected to the District Bench, a post he served until his death.

Judge Williams was a member of the First Baptist Church in Booneville, and well known throughout the community as a man deeply dedicated to his family, an avid golfer, and a terrific chef.

My condolences go out to his wife, Dottie; their daughters Jane, Charlotte and Natalie; his mother Elizabeth; his two sisters, two brothers and his grandson, Rane. Judge Williams will be deeply missed in Logan County and throughout Arkansas.

HONORING ERNEST DUNCAN

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 2005

Mr. BURGESS. Mr. Speaker, I rise today to honor the service and commitment of Mr. Ernest Duncan of Pilot Point, Texas. Mr. Duncan's zealous and passionate spirit towards community service warrants recognition.

As a 90 year old gentleman, Mr. Duncan dedicates much of his time to those in need, whether near or far away. Since the tragic event of Hurricane Rita, Mr. Duncan has voluntarily made two trips to Beaumont, Texas to help the victims. He and others from the Southern Baptist Disaster Relief helped the effort by serving food, cooking and picking up trash for twelve hours everyday. During their first four-day tour in Beaumont, Mr. Duncan and his colleagues slept on cots and functioned without electricity or water.

In addition to his recent involvement in the Hurricane Rita relief effort, Mr. Duncan is a committed volunteer for the Texas Baptist Men's bricking crew, which travels across the country building churches. This effort helps minimize costs for churches and allows them to use their money towards other expenses and community projects.

Mr. Speaker, It is with great honor that I stand here today to recognize Mr. Ernest Duncan, who has dedicated his time to community service, and who has reached out to assist those outside the North Texas area. Mr. Duncan's admirable commitment to helping others is an inspiration to all generations.

PERSONAL EXPLANATION

HON. JIM GIBBONS

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 2005

Mr. GIBBONS. Mr. Speaker, I rise today to explain how I would have voted on October 17, 2005 during Roll Call votes #521, #522, and #523 during the first session of the 109th Congress. The first vote was for approving the Journal, the second was H. Res. 457—Recognizing the importance and positive contributions of chemistry and supporting the goals and ideals of National Chemistry Week, and the third was H. Res. 491—Expressing the sense of the House with respect to raising awareness and enhancing the state of computer security in the United States, and supporting the goals and ideals of National Cyber Security Awareness Month.

If present, I would have voted yes on these roll call votes.

RECOGNIZING KYLE JONES

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 2005

Mr. NEY. Mr. Speaker:

Whereas, Kyle Jones has achieved the rank of Eagle Scout; and

Whereas, Kyle Jones shall be recognized as the first Eagle Scout in the Barnesville Boy Scout Troop 71; and

Whereas, Kyle Jones should be commended for his dedication and perseverance.

Therefore, I join with the residents of the entire 18th Congressional District of Ohio in honoring and congratulating Kyle Jones for his outstanding accomplishment.

WORLD FOOD PRIZE DAY

HON. MARTIN OLAV SABO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 2005

Mr. SABO. Mr. Speaker, as people around the globe observe World Food Prize Day, I am honored to recognize Norman E. Borlaug, a man who worked wonders to boost agricultural production and helped reverse widespread hunger in many countries.

A former University of Minnesota instructor, Borlaug is also an alumnus, having earned his bachelor's, master's and Ph.D. there. Borlaug grew up on a farm, and became impassioned about the prospect of combating a wheat disease called rust late into his studies for his bachelor's degree. After 10 years of research, Borlaug developed a semidwarf variety of wheat that resisted rust and other diseases, was insensitive to light so that it could grow in a variety of climates, and was short and stalky enough to be heavily fertilized.

In time, he would become known as the Father of the Green Revolution.

By taking his wheat variety to Mexico in 1944, the country became self-sufficient in wheat production by 1956. By 1963, more than 95% of Mexico's wheat lands grew Borlaug's variety.

He took his success to other countries, notably India and Pakistan, reversing food shortages and helping to feed millions of people. He went on to train agronomists from every part of the world.

Borlaug was often warned that small farmers would never accept new technology. But he did not accept that judgment and worked tirelessly in the fields to earn trust, make doubters into believers, and change agriculture practices.

Borlaug also clearly understood that small peasant farmers needed more than improved farming production to be successful. Helpful economic policy had to exist to support the new technology, make the needed products available, and ensure fair grain prices. He has focused much time and energy to improve food distribution within countries, as well.

"If you don't do anything, you'll never have critics," Borlaug was known to have said. Although people questioned his technology or criticized it, it is believed that he saved more lives than any other person who has ever lived. He has also been called a "peaceful revolutionary" and a "consultant to governments of every political ideology."

Borlaug won the esteemed Nobel Peace Prize in 1970. In 2002, he received the National Academy of Science's highest honor, the Public Welfare Medal, for his work to fight hunger. He is the recipient of more than 49 honorary doctoral degree and many scientific and civic awards from around the globe. Because there was no similar award recognizing advancement in food production, Borlaug helped found the World Food Prize, celebrated yearly in October.

Mr. Speaker, as my home state celebrates Norman Borlaug Day and World Food Prize Day on October 16, I wish to extend my most humble gratitude and congratulations to this tireless and dedicated public servant. Norman Borlaug saw an opportunity to better lives, and he fought for it. He has spent a lifetime working to help countries adapt practices and policies to help them feed their people.

Thank you, Norman Borlaug. This nation—and many nations—thank you.

TRIBUTE TO THE MASSEY AGENCY—30TH ANNIVERSARY

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 2005

Mr. PAYNE. Mr. Speaker, I ask my colleagues here in the House of Representatives to join me as I rise to acknowledge the Massey Agency as this Newark firm celebrates its 30th anniversary. With Emma and Ramelle Massey at the helm of this woman/minority-owned insurance and brokerage firm, they offer services that are important to residents and businesses in the area.

Fortunately, for the City of Newark, the Massey Agency has always been committed to the needs of the community. Beginning with the late Raymond J. Massey who opened the agency's doors and continuing with his wife, Emma and daughter, Ramelle, the Massey Agency has been providing job opportunities and internship programs for local residents. In addition to the employment opportunities the Massey Agency has offered, they have also contributed financially to local community organizations which have assisted many young people and programs to achieve success for themselves and others in the community. Along the way, the agency has earned a standing as one of the predominant Minority Business Enterprise/Women's Business Enterprise in the Northeast. The agency has also received proclamations from the Mayor of Newark and the Independent Insurance Agents of New Jersey, which recognized the agency's longevity, dedication to the City of Newark and the quality of its insurance products and services.

Educated in some of the finest schools and universities, the Massey women are true professionals and exemplary role models. They are both multiple licensed insurance brokers offering a wide array of services. One of their goals is to expand their reach beyond the local community. With the tenacity, energy, intelligence and willpower of Emma and Ramelle, there is no doubt they will meet this self imposed challenge.

Mr. Speaker, I know my colleagues agree that the Massey Agency and the Newark community have every right to be proud of the lasting contributions the agency has made to the Greater Newark Community. I am pleased to congratulate Emma and Ramelle Massey along with their employees on their 30th anniversary.

RECOGNIZING SUE MAXWELL

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 2005

Mr. NEY. Mr. Speaker:

Whereas, Sue Maxwell has been named as the 2005 Vinton County Southeastern Ohio Regional Council Person of the Year; and

Whereas, Sue Maxwell has been acknowledged for her success in operating Ravenwood Castle; and

Whereas, Sue Maxwell should be commended for her business savvy and her dedication to Hocking Hills and Vinton County.

Therefore, I join with the residents of the entire 18th Congressional District of Ohio in honoring and congratulating Sue Maxwell for her outstanding accomplishment.

THE 80TH ANNIVERSARY OF THE GRAND OLE OPRY, NASHVILLE, TN

HON. JIM COOPER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 2005

Mr. COOPER. Mr. Speaker, I rise today to recognize the 80th anniversary of the Grand Ole Opry in Nashville, TN. As one of the most renowned traditions in American music and broadcasting, the Grand Ole Opry continues to entertain and delight music lovers around the globe every week. Broadcast live from the Opry stage every Friday and Saturday night, the Grand Ole Opry is the Nation's longest-running radio show and the beloved home of our Nation's most celebrated music.

The show's original host, George D. Hay, introduced the first performance in 1925: 77-year-old Uncle Jimmy Thompson, who could ''fiddle the taters off the vine,'' played ''Tennessee Waggoner.'' Since then its audience has grown from a group of local Nashville listeners to the millions of music fans who tune in through satellite radio, television, and the internet.

The Ryman Auditorium's original well-worn oak wood Opry stage has moved with the show's changing venues through the years and has hosted some of America's most legendary country musicians—Patsy Cline, Roy Acuff, the Carter Family, Willie Nelson, Loretta Lynn, Johnny Cash, Dolly Parton, and Bill Monroe. For many generations of Americans, Minnie Pearl's cheerful shout of ''How-dee! I'm just so proud to be here!'' will forever signify the start of another memorable and captivating Grand Ole Opry show.

My own personal connection to the Grand Ole Opry began when I met the legendary Opry duo Earl Scruggs and Lester Flatt during my father's 1950s political campaigns throughout Tennessee. Like so many others, I tuned in every week to listen to the gifted musicianship of the performers. And in a visit I shared with Earl Scruggs not too long ago, he told me that growing up in Shelby, North Carolina, he would walk across the hollow to a neighbor's house just to listen to the show every week because his family didn't have a radio. Both accomplished musicians and fans alike continue to hold the Grand Ole Opry in the highest esteem among America's musical traditions.

While the Opry has always stayed true to the musical roots upon which it was founded, it continues to evolve with the latest country sounds. The Grand Ole Opry's elite membership now includes accomplished artists like Martina McBride, Garth Brooks, Alan Jackson, Vince Gill, Brad Paisley, Patty Loveless, and Dierks Bentley who continue to entertain fans on the same oak wood stage every week.

In its 80 years, the Grand Ole Opry has come to mean something more than a weekly country show. In addition to extending Nashville and America's musical traditions throughout the country and world, it is a way to connect with and pay tribute to America's musical influences and heritage. I ask my colleagues to join me in recognizing the importance of this beloved American musical institution and to celebrate the 80th anniversary of the Grand Ole Opry.

CONGRATULATING IRON CITY PIPE AND SUPPLY FOR WINNING THE ENTREPRENEUR OF THE YEAR AWARD

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 2005

Mr. NEY. Mr. Speaker:

Whereas, owners Ray Brewer, Rick Smith and Eric Massie in true entrepreneurial spirit recognized a market opening in southern Ohio and capitalized on it; and

Whereas, Iron City Pipe and Supply has been able to adapt and grow and now serves the needs of businesses in a tri-state area; and

Whereas, Iron City Pipe and Supply is looking forward to continued growth and diversification to further benefit the Jackson area.

Therefore, I join with family, friends and the entire 18th Congressional District of Ohio in congratulating Iron City Pipe and Supply for winning this prestigious award.

BETTY LEE STRECKFUSS, DELEGATE TO THE 2005 WHITE HOUSE CONFERENCE ON AGING

HON. TED POE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 2005

Mr. POE. Mr. Speaker, during the second week of December, the 2005 White House Conference on Aging will take place in Washington, D.C. This is a once in a decade event where delegates from across the United States gather to make policy recommendations to the President and Congress on issues of importance to aging generations.

I had the privilege of nominating Betty Lee Streckfuss, RN, as a delegate to the 2005 White House Conference on Aging, and I am proud to say that she will be in attendance as the delegate from the Second Congressional District of Texas.

Betty has a long and distinguished background in healthcare. A former Head Nurse of the Acute Care Pediatric Unit at Ben Taub Hospital in Houston, TX, Betty is currently serving as founder and associate partner of Streckfuss and Associates, a Texas based medical consulting endeavor specializing in clinical policies, procedures and regulatory issues. She is also secretary of the Houston/Harris County Area Agency on Aging Advisory Council and a member of the Texas Silver Haired Legislature.

I commend Betty's commitment to healthcare. I have no doubt that her experience, insight, and sincere desire to advocate on behalf of our aging Americans will serve our community well at the 2005 White House Conference on Aging.

A TRIBUTE TO REAR ADMIRAL KATHLEEN K. PAIGE

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 2005

Mr. LEWIS of California. Mr. Speaker, I come to the floor today to recognize the service of an outstanding leader in our Nation's Armed Forces. After more than 34 years in uniform, Rear Admiral Kathleen K. Paige will soon retire from the United States Navy and move on to private life.

Admiral Paige's sustained, superb service culminated in a series of highly challenging senior assignments where she demonstrated dedication to one primary goal: providing highly effective military capabilities to warfighters.

Her first Flag assignment was as Commander, Naval Surface Warfare Center in July 1996. Two years later, she assumed duties as Director, Theater Air and Missile Defense and Systems Engineering in the Program Executive Office for Theater Surface Combatants. Then, in April 1999, she was given the additional concurrent assignment as the first Assistant Secretary of the Navy (Research, Development & Acquisition) Chief Engineer—the Navy's senior technical authority for development of system and technical architectures. Because of her extraordinary talent and expertise in complex systems, in July 2001, the Missile Defense Agency selected her to be the first Ballistic Missile Defense System Technical Director in charge of integrating the engineering development of all the systems comprising the missile defense program.

Since August 2002, Admiral Paige has also served as the Navy's senior Engineering Duty Officer—nurturing the engineering community's rich heritage of scientific fact-finding and integrated, top-down engineering to ensure continuous innovation. At the same time, she made certain that the Navy remained anchored to fundamental operational realities.

TRIBUTE TO THE PEOPLE OF THE REPUBLIC OF AZERBAIJAN

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 2005

Mr. ORTIZ. Mr. Speaker, I rise today to offer my sincere congratulations to the people of the Republic of Azerbaijan as they celebrate the 14th anniversary of their Independence from the Soviet Union. On October 18, 1991, Azerbaijan adopted its Constitutional Act on Independence declaring their independence as a sovereign state.

Having lived under Soviet rule, the people of Azerbaijan have a great appreciation of living in a democratic civil society and understand that they need to continue to democratize and hold free and fair elections in order to develop and integrate into western structures.

On November 6, 2005, Azerbaijan will hold important parliamentary elections. As a sign of his commitment to ensuring free and fair elections, President Ilham Aliyev issued an Executive Order earlier this year outlining important steps that will be taken prior to the election. Since then great progress has been made to: allow all political parties to organize rallies free from violence and intimidation, welcome domestic and international election observers, provide appropriate access to media, and ensure central and regional authorities create the necessary conditions for exit polls.

Azerbaijan has come forward as a strong strategic partner and ally not only to the United States but also among the democratic societies in our world. I congratulate Azerbaijan on this important day and look forward to them having free and fair elections next month.

IN RECOGNITION OF FORMER TAIWANESE PRESIDENT LEE TENG-HUI

HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 2005

Ms. SOLIS. Mr. Speaker, I rise today to welcome former Taiwanese President Lee Teng-Hui to Washington, DC.

President Lee Teng-Hui is truly a founding father of democracy. As president of Taiwan from 1988 to 2000, Mr. Lee Teng-Hui helped Taiwan develop into the strong democracy it is today. Today, Taiwan is a vital, growing democracy committed to the universal principles of human freedom and dignity. I am certain that President Lee Teng-Hui's visits to the Liberty Bell and Independence Hall and his viewing of the United States Constitution and the Declaration of Independence has only deepened his appreciation of America's struggle for democracy.

It is my hope that one day there will be open dialogue between high level officials in the United States and in Taiwan for the development of democracy beyond our two countries and around the world.

CONGRATULATING RANDY EVANS AND RANDY EVANS CONSTRUCTION FOR WINNING THE SEORC BUSINESS OF THE YEAR AWARD

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 2005

Mr. NEY. Mr. Speaker:

Whereas, Randy Evans, with effort and desire, started Randy Evans Construction and has made it a significant competitor in the Jackson area construction business; and

Whereas, Randy Evans and Randy Evans Construction have helped shape the Jackson area community; and

Whereas, Randy Evans' commitment to perfection, perseverance and fortitude are an inspiration to everyone in Jackson County and beyond.

Therefore, I join with family, friends and the entire 18th Congressional District of Ohio in congratulating Randy Evans and Randy Evans Construction for winning this prestigious award.

THE DISTRICT OF COLUMBIA COURT, OFFENDER SUPERVISION, PAROLE AND PUBLIC DEFENDER EMPLOYEES EQUITY ACT OF 2005

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 2005

Ms. NORTON. Mr. Speaker, today Chairman TOM DAVIS and I introduce a bill that will correct a long overdue oversight affecting the non-judicial employees of the D.C. Courts, the Court Services and Offender Supervision Agency (CSOSA), and the D.C. Public Defender Service (PDS).

Under the 1997 National Capital Revitalization and Self-Government Improvement Act of 1997, the federal government took over the operation of the District of Columbia Courts and related services making the non-judicial employees of the D.C. Courts and the employees of CSOSA federal employees. In 1998, employees of PDS were similarly transferred as part of the District of Columbia Courts and Justice Technical Collections Act. As federal employees, these Court, CSOSA and PDS employees were brought under the federal retirement program (FERS). However, for the employees transferred in 1997 and in 1998, "creditable service" for the purposes of determining when they would be eligible to retire and the amount of annuity they would be entitled to under FERS only began from the date of the transfer. That is, the 1997 and 1998 laws made no provision for treating their year of service as Court and related services employees prior to these laws as creditable service for retirement.

Accordingly, the bill we introduced today will amend these laws to require that the time served by these employees before 1997 will count towards their overall federal retirement eligibility as "creditable service". So for example, if an employee is 60 years old today and has worked 20 years (i.e. since 1985) for the D.C. Courts under our bill he would be eligible for federal retirement today (whereas without our bill he would have to work another twelve years).

I should also note that to avoid the problem of "double dipping," since the employees are still entitled to their D.C. retirement benefits (based upon their work status up until 1997), our bill does not count the pre-1997 years spent as D.C. government employees towards the amount of federal retirement annuity an employee is eligible to receive.

However, it is only fair and just that the Court and related services employees who started their jobs with the expectation that would be able to retire without penalty after 20 years of service or more should be allowed to do so. Our bill today does just that, it restores their "lost time."

PERSONAL EXPLANATION

HON. EARL BLUMENAUER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 2005

Mr. BLUMENAUER. Mr. Speaker, had I been present for the following votes on Monday, October 17th, I would have voted as follows:

Rollcall vote No. 521: I would have voted ''aye'' on approving the Journal.

Rollcall vote No. 522: I would have voted ''aye'' on H. Res. 457, recognizing the importance and positive contributions of chemistry to our everyday lives and supporting the goals and ideas of National Chemistry Week.

Rollcall vote No. 523: I would have voted ''aye'' on H. Res. 491, expressing the sense of the House of Representatives with respect to raising awareness and enhancing the state of computer security in the United States and supporting the goals and ideas of National Cyber Security Awareness Month.

INTRODUCTION OF ''PREVENTING SEXUAL ASSAULTS IN THE MILITARY ACT OF 2005''

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 2005

Mrs. MALONEY. Mr. Speaker, today, I introduce legislation, the ''Preventing Sexual Assaults in the Military Act of 2005,'' which would appropriate such funds as are necessary for fiscal years 2006 through 2008 to eliminate the backlog in processing DNA evidence, to ensure that testing takes place in a timely manner, to provide an adequate supply of forensic evidence collection kits at all domestic and overseas U.S. military installations, military academies, and theaters of operation, and to ensure that at least one military medical personnel member, who is trained as a Sexual Assault Nurse Examiner (SANE) or Sexual Assault Forensic Examiner (SAFE), is on duty at all times in the health care facility at a military academy, domestic military base, overseas military base, and theaters of operation, except where a memorandum of understanding is issued between the military installation and a local civilian hospital.

Rapes and sexual assaults are far too common in both civilian life and in the military. As the April 2004 report issued by the Pentagon states, among other findings, current DoD policies and standards do not focus on sexual assault and ''the military services' policies lack integration for effective prevention and response.''

This legislation will help bring justice to the victims and survivors of sexual assault by ensuring that DNA evidence is used to identify perpetrators and bring them to justice. Additionally, it will provide servicemembers who are raped with the necessary medical care.

As our soldiers are fighting for those who have long been denied basic rights, we should do everything possible to ensure that we are protecting their rights, too.

HONORING CLARENCE S. HAINES

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 2005

Mr. KILDEE. Mr. Speaker, I rise before you today on behalf of C.S. Mott Community College located in my hometown of Flint, Michigan. On October 24, members of Mott's administration, faculty, staff, and student body will gather to pay tribute to the contributions made by Clarence S. Haines, a true pioneer in the fields of Applied Sciences and Technical Education at the college. Mr. Haines, who died in 1995, will be honored with a plaque honoring his life and legacy, to be displayed in Mott's Regional Technology Center.

Born in 1905, Clarence ''Mike'' Haines was the first chairman of Mott Community College's Trades and Industry Department. In 1955, he was awarded the Ballenger Chair of Learning in that area. He created specialized curricula that helped usher the school into the technology age, and facilitated the planning, coordination, and implementation of these programs. Clarence also assisted with designing the school's Mott and Gorman Buildings to simulate workplace environments and provide practical experiences for students. Mott's Applied Sciences program was created largely as a result of his influence.

Mr. Speaker, as a former teacher, I applaud Clarence Haines' dedication and commitment to education. His insight and vision have helped create many opportunities for our young people, past, present, and future. I ask my colleagues in the 109th Congress to please join me in acknowledging his memorable achievements.

CONGRATULATING BEAR VILLAGE AND KEITH AND LYNN DENNY FOR WINNING THE BEAUTIFICATION AWARD

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 2005

Mr. NEY. Mr. Speaker:

Whereas, Keith and Lynn Denny have built one of the premier gift shops in Jackson County; and

Whereas, Bear Village has grown to be a impeccable illustration of what Jackson County has to offer and what great potential the community has; and

Whereas, Keith and Lynn Denny's vision has added greatly to the beauty of Jackson County and is further enhancing the attractiveness of Water Street.

Therefore, I join with family, friends and the entire 18th Congressional District of Ohio in congratulating Bear Village and Keith and Lynn Denny for winning this prestigious award.

RECOGNIZING THE DISTINGUISHED SERVICE OF CHARLES W. PERKINS

HON. DARRELL E. ISSA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 2005

Mr. ISSA. Mr. Speaker, I rise today to honor Firefighter Charles W. ''Chuck'' Perkins for his twenty-three years of dedicated service to the North County Fire Protection District and his commitment to serving his community.

Chuck Perkins and his fellow firefighters from the North County Fire Protection District have served the Fallbrook, Bonsall and Rainbow areas with honor since the district was chartered in 1925. Classified an ''all-risk'' fire, rescue and hazard mitigation agency, it serves over 150 square miles in the northern-most portion of San Diego County.

Chuck Perkins' service to his community began in 1982, as a Reserve Firefighter. On July 20, 1987, he was hired as a full-time Fire/EMS Dispatcher. His hard work and dedication were recognized on April 5, 1988, when he was hired as a full-time Firefighter. His contributions to the agency led to his promotion to the rank of Engineer on March 15, 1999.

Engineer Perkins was actively involved in fire, rescue, emergency services and fire prevention programs. He managed the Engine Company's Fire Inspection Program for over ten years. The Fire Inspection Program, along with Engineer Perkins' skilled management resulted in a significant reduction in fire loss to the business community of the greater Fallbrook, Bonsall and Rainbow areas.

Engineer Perkins is regarded as a humble and generous man by his fellow San Diegans. His involvement in the community is not limited to his work as an Engineer in the North County Fire Protection District. For the last fifteen years, Engineer Perkins has volunteered his time as a leader in the district's public education efforts. He demonstrated his passion for fire prevention and safety education by portraying ''Smokey the Bear,'' performing for thousands of school children during his career, promoting Smokey's fire prevention message, ''Only you can prevent forest fires.'' Engineer Perkins continues to share his time as a ''Partner in Prevention,'' by traveling to local schools, teaching kids to ''Stop, Drop and Roll'' as well as the ''Exit Drill in the Home'' (EDITH) exercise. In addition to his portrayal of Smokey the Bear, he also warns school children about the dangers of fire and smoke as ''Evil Mr. Smoke.''

Engineer Chuck Perkins will retire from the North County Fire Protection District on October 28, 2005, after more than 23 years of esteemed service, though he will continue to remain a leader in fire safety education. Chuck Perkins is due our respect and gratitude for his tireless service and genuine commitment to his community now, and in the future.

CONGRATULATING DFW INTERNATIONAL AIRPORT FOR RECEIVING ''STAR OF ENERGY EFFICIENCY'' AWARD

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 2005

Mr. BURGESS. Mr. Speaker, I rise today to congratulate the Dallas/Ft. Worth International Airport for receiving a ''Star ofEnergy Efficiency'' Award from the Alliance to Save Energy. DFW won the award for its aggressive pursuit and corporate commitment to the efficient and environmentally friendly use of energy.

Dallas/Ft. Worth International Airport currently serves more than 59 million passengers and offers 2,300 flights a day to 152 domestic and international destinations. DFW has faced daunting challenges since 2001, including a catastrophic business downturn in the airlines precipitated by terrorist attacks in New York, Pennsylvania and Washington, DC, and the Environmental Protection Agency's introduction of stringent national ambient clean air

ozone standards that require DFW to reduce its emissions by 70 percent. Throughout this period, and long before, DFW officials have campaigned aggressively to reduce operating expenses for all its tenants through reduced energy use while adhering to new EPA guidelines.

From building commissioning and energy retrofits, to more efficient building design and adherence to strict energy codes, DFW has reduced its energy use at the central plant by over one fourth, and is energy use per square foot by almost 40 percent. This has resulted in a total avoided energy use of 25 million MMBtus. In addition, nitrous oxide emissions are expected to be reduced by 86 percent, far exceeding the EPA mandate.

Mr. Speaker, it is with great honor that I stand here today to congratulate Dallas/Ft. Worth International Airport, my home airport, for setting an unprecedented example as a world leader in energy and environmental stewardship within the airline transportation industry.

TAIWAN NATIONAL DAY

HON. JOHN ABNEY CULBERSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 2005

Mr. CULBERSON. Mr. Speaker, today I want to congratulate the people of Taiwan on the occasion of their National Day.

Taiwan serves as a prosperous and democratic model to countries around the world and I would like to personally congratulate Taiwan for its dedication to democracy and the rule of law. Its 23 million people enjoy the privileges of a balanced judicial system, free speech, and fair elections. Its vibrant free market system continues to thrive and supports a strong and healthy economy. Taiwan is a strong regional ally and a close friend of the United States and is committed to maintaining peace and stability.

To help us celebrate the momentous accomplishments of our friends in Taiwan, I urge my colleagues here in Congress to support Taiwan's bid to return to the United Nations. It is truly shameful that Taiwan has been denied its proper international role and presence. There is no better way to show our respect for Taiwan's democratic ideals than to support its bid to return to the international community. It is an objective fact that Taiwan is a free and independent nation, and therefore meets all the criteria for admission to the United Nations.

I am confident Taiwan will continue to serve as a model to its neighbors and I praise its commitment to democracy, the rule of law, and regional stability. Congratulations Taiwan on your National Day.

CONGRATULATING PAUL AND SHARON BOCZEK FOR WINNING THE 2005 PEACEKEEPER'S AWARD

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 2005

Mr. NEY. Mr. Speaker:

Whereas, Paul and Sharon Boczek have selflessly given to support Peg's House, the Tri-County Help Center's emergency domestic violence shelter; and

Whereas, Paul and Sharon Boczek and their staff have conducted themselves with professionalism in maintaining the confidentiality of the shelter and managing the upkeep of Peg's House; and

Whereas, Paul and Sharon Boczek pursue this noble labor without expectation of thanks or reward, but out of the pure kindness of their hearts.

Therefore, I join with family, friends and the entire 18th Congressional District of Ohio in congratulating Paul and Sharon Boczek for winning this prestigious award.

PETROLEUM REFINERIES: WILL RECORD PROFITS SPUR INVESTMENT IN NEW DOMESTIC CAPACITY?

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 2005

Mr. KUCINICH. Mr. Speaker, I would like to submit the following statement for the RECORD.

''Will Record Profits spur investment in new domestic capacity?'' That is the title of this hearing. In a competitive market, the question would not be worth asking in Congress. There would be no doubt about the answer.

But the petroleum refining industry is not a competitive market. Ten companies control 80 percent of the refining capacity, and just 5 companies control half of the Nation's capacity all by themselves.

Since 1981, the concentration of refining capacity supply in fewer and fewer hands has increased. Mergers and acquisitions have fueled industry concentration. The result is astonishing:

Operable capacity stopped rising in 1981, as it had for the previous 30 years.

Instead, it went into decline, before it plateauing. For the past 20 years, capacity has been held relatively constant.

Economics 101 teaches that rising demand meets constant supply at higher and higher prices. We can be confident that the industry is familiar with that economics lesson, and they have profited handsomely as a result.

The question we should address is why should the U.S. Government continue to permit an anti-competitive environment that enables a few companies to rein in supply and drive up record profits?

I am sure that we will hear from the industry a lot about onerous environmental regulations. They want the public to believe that they would have built more refineries if only they'd been allowed to do it.

Not only is that not true, but it is a smokescreen. The industry hasn't tried but once in 25 years to build a new refinery. Yet, between 1994 and 2004, they closed 30 refineries. On balance, they have been closing refineries, not trying to open new ones. Closing refineries tightens supply, driving up prices when demand is rising. That is exactly what has happened, and they've made record profits.

If there were no environmental regulations, the industry would have to invent them or something equivalent in order to disguise a corporate strategy to hold down supply. That is the real issue and Americans are paying mightily for it. Since 2001, according to Public Citizen, the largest 5 oil companies operating in the United States enjoyed after-tax profits of $254 billion.

There are things Congress can do. One would be to pass H.R. 2070, the Gas Price Spike Act of 2005. This bill, which I introduced with 39 cosponsors, would implement a windfall profit tax on gasoline and diesel. Such a tax would be imposed on key oil industry profits above a reasonable rate of return. If oil companies are collecting excessive profits on the backs of consumers, they should be subject to a stiff tax on those excessive profits. The threat of heavy taxation will send a clear signal to oil companies that price gouging, and shorting supply, will not pay.

In addition, H.R. 2070 will direct the revenue from the windfall profits tax to Americans who buy ultra efficient cars made in America. These individuals would receive a $6000 tax credit. The credit would be phased in, and cars that achieved 65 miles per gallon would receive a full tax credit. Today average cars get less than 30 miles per gallon. This tax credit will stimulate the market in ultra efficient vehicles.

Lastly, the bill makes funding available to regional transit authorities to offset significantly reduced mass transit fares during times of gas price spikes. Providing low-cost mass transit will slow demand for gas and ease the price of gasoline, benefiting all Americans.

CONGRATULATING FORMER CONGRESSMAN JOSEPH HOEFFEL

HON. ALLYSON Y. SCHWARTZ

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 2005

Ms. SCHWARTZ of Pennsylvania. Mr. Speaker, Joseph Hoeffel honorably represented Pennsylvania's 13th Congressional district for 6 years. And, on October 16, I proudly joined with area Democrats in naming Joe the ''Montgomery County Democrat of the Year.''

As a lifelong resident of Montgomery County, Joe was elected in 1976 to the first of four terms in the Pennsylvania State House, representing the Abington area until 1984, where he worked on budget and government reform, economic development and programs for seniors. In 1991, Joe was elected to the first of two terms as Montgomery County Commissioner where he fought for open space preservation, community revitalization and reforms of patronage and pay-to-play abuses in the courthouse.

In 1996, Joe ran for the U.S. House of Representatives, challenging a freshman incumbent and losing by just 84 votes. However, he returned to the campaign trail in 1998 and was successful—earning the opportunity to represent the 13th district in the 106th, 107th, and 108th Congresses. Joe campaigned on a platform of creating jobs, bettering our public school system, expanding access to health care, balancing the Federal budget, and ensuring that we have a robust foreign policy.

During his tenure, Joe fulfilled many campaign promises. He authored various pieces of legislation to better the 13th district and the Nation, including bills to create a veterans' cemetery at Valley Forge, to eliminate wasteful corporate welfare, to reform Federal support for public schools and to establish a patients' bill of rights.

At home, Joe was a constant figure throughout the community. He was intimately involved in bringing a public health center to Norristown and establishing the Center for Sustainable Communities at Temple University-Ambler. Additionally, he secured Federal funds for the Schuylkill Valley Metro, Title I education, riverfront development in Norristown and Northeast Philadelphia, the Montgomery County Community College and the Abington Arts Center.

From his seat on the International Relations Committee, Joe also advocated for the United States to play an active role in international efforts to bring peace to the Middle East and throughout the world.

Joe's reputation as a hard-working legislator and an outspoken, progressive Democrat will not be forgotten. I know many of my colleagues continue to rely on Joe's guidance and advice and wish him well in his new endeavors.

Mr. Speaker, on behalf of all of my colleagues here in Congress I again want to congratulate Joe Hoeffel on being recognized as Montgomery County's Democrat of the Year. Although his service in Congress has come to an end, I know Joe will continue to work on behalf of the people of Montgomery County, Pennsylvania, and our Nation for many years to come.

CELEBRATING THE LIFE OF VIVIAN MALONE JONES

HON. ARTUR DAVIS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 2005

Mr. DAVIS of Alabama. Mr. Speaker, I rise today to offer a tribute to Vivian Malone Jones.

It is my generation's tragedy that so few of us knew the name of Vivian Malone Jones. It is a cruel twist of history that George Wallace's ''stand in the schoolhouse door'' is itself a vivid memory but that the protagonists of the event—the ones being stood against—were off site and out of view.

Vivian Malone Jones died too young last week at age 63. In prose, she was the first black American to earn a degree from the University of Alabama. In poetry, she was proof of the power of dignified commitment, and was a trailblazer to young black women my mother's age, whose own dreams seemed more attainable when they contemplated her boldness.

Part of Jones' current anonymity was based on the choice she made to forge a conventional career as a government employee, rather than as a traveling icon of the civil rights era. She did not frequent the reenactments, the marches, or the annual seminars revisiting the sixties, and I never recall her weighing in on whether the war in Iraq was unjust or whether a Supreme Court nominee should be confirmed.

But these choices of when and where to cast her influence were hers, and they were noble and worthy of respect. And the value Vivian Malone Jones put on respecting choices meant that I never heard her offer those facile denigrations of the caliber of this generation's African American leaders.

My last memory of Jones is the Newsweek cover the week she registered at the University of Alabama. The cover featured the unattributed quote, ''We owe them—and we owe ourselves—a better country.'' It was so true, for Jones and her cohorts, and it is so true, for the children of poverty and depressed schools, for the working poor who are losing ground, and for the anonymous challengers to glass ceilings who are themselves broken for trying to climb to higher altitudes. Blessed are those whose courage moves us to make the ultimate commitments.

CONGRATULATING CHIEF MARTIN KENDZORA FOR WINNING THE 2005 PEACEKEEPER'S AWARD

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 2005

Mr. NEY. Mr. Speaker:

Whereas, Martin Kendzora and the St. Clairsville Police Department continue to assist the Tri-County Help Center combat domestic violence; and

Whereas, Martin Kendzora supports the Family Visitation Center and worked with the staff there to develop safety plans; and

Whereas, Martin Kendzora has been the consummate professional in dealing with the staff and clients of the Tri-County Help Center.

Therefore, I join with family, friends and the entire 18th Congressional District of Ohio in congratulating Chief Martin Kendzora for winning this prestigious award.

IN RECOGNITION OF THE SERVICE OF MR. M.J. ''MIKE'' ARTS

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 2005

Mr. SHAW. Mr. Speaker, I rise today to pay tribute to a friend and a fixture within the Greater Boca Raton Chamber of Commerce. On Friday, October 21, 2005, after twenty years at the helm, Mike Arts retires as President of the Greater Boca Raton Chamber of Commerce. Throughout his tenure, Mike's leadership cut a path of economic growth and prosperity transforming his home community, Boca Raton.

In 1985, Mike took the reigns of the Chamber and faced an daunting task. The Greater Boca Raton Chamber of Commerce was dealing with the loss of 10,000 IBM jobs, an inactive membership and a fledgling downtown development plan.

Today, thanks to Mike's leadership, the Chamber enjoys a membership of 1,800 members, the largest business organization in Palm Beach and Broward counties. The success of the Boca Raton Chamber has been at the center of making the City of Boca Raton, the envy of municipalities throughout Florida.

Mike's involvement reaches far beyond Boca Raton. Mike has served as President of the Florida Chamber of Commerce Executives and as a member of the United States Chamber of Commerce. Mike has also supported a regional business approach that has led South Florida to become a national and international leader in transportation and international trade. As a result of this progressive vision, Mike has been called one of Palm Beach County's ''movers and shakers.''

I have had the privilege of representing the residents of Boca Raton and Palm Beach County since 1992. As a Member of Congress representing a new area, it was an easy transition the day I first met Mike. Mike took precious time introducing me around the Boca Raton business community.

The many relationships and support I have today is a direct result of Mike's support.

Every two years constituents of Florida's 22nd Congressional District travel to Washington and participate in my District Fly-In. The Fly-In provides my constituents with a first-hand look at the inner workings of the Congress and our federal government. I appreciate Mike's longstanding support of these events during the planning and implementation process. His assistance has made these Fly-In events a tremendous success.

Although Mike will step aside from leading the Boca Raton Chamber, we know his activities and commitment to Boca Raton and the South Florida business community remain a top priority.

I Mr. Speaker, it gives me great pleasure to call Mike Arts my friend. I wish Mike and his lovely wife, Catherine, much happiness and good health as they complete this chapter in their partnership and look for new challenges and opportunities in the future. I thank my colleagues for allowing me to bring to the attention of the House the outstanding service of Mike Arts.

HONORING THE ACCOMPLISHMENTS OF JO ANN MITTENBERG, NEW YORK STATE'S AMERICAN STAR OF TEACHING HONOREE

HON. STEVE ISRAEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 2005

Mr. ISRAEL. Mr. Speaker, I rise today to celebrate the accomplishments of Jo Ann Mittenberg, who was recognized in September by the U.S. Department of Education as the American Star of Teaching honoree from New York State. This exceptional honor goes annually to one exemplary teacher from each state.

Ms. Mittenberg has taught math for over 27 years and has been a teacher in the Farmingdale Union Free School district for over 14 years. Her colleagues describe her as a ''gifted, caring, tireless, dedicated person with a superb mathematical background and extraordinary teaching skills.''

Over the years, Ms. Mittenberg has taught Sequential I, II and III Mathematics, Grade 8 Math, Grade 8 Remedial Math, Regents Competency Math, Pre-Calculus Syracuse University Calculus Program and C.W. Post SCALE Calculus for college credit. Additionally, she has taught computer programming, computer literacy, SAT preparation, and GED preparation courses. One of Ms. Mittenberg's most impressive successes in the classroom has been helping ninth graders with disabilities pass state Regents exams with a 90 percent success rate.

Ms. Mittenberg's dedication to providing Long Island students with a strong math education doesn't end in the classroom. She works hard to ensure that her colleagues are

trained in the most innovative teaching techniques. As a certified Texas Instruments T-Fast (Technology for All Students) instructor, Ms. Mittenberg trains other teachers to use the newest, most advanced calculators. Over the years, she has taught almost 200 hours of in-service and professional development workshops.

I am proud to have nominated Ms. Mittenberg for this prestigious and well-deserved honor. We have heard time and again the importance of math and science in the classroom. Long Islanders can be proud that teachers like Jo Ann Mittenberg are teaching their children skills they need to be successful in tomorrow's world.

IN CELEBRATION OF THE OPENING OF THE MALTZ MUSEUM OF JEWISH HERITAGE

HON. STEPHANIE TUBBS JONES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 2005

Mrs. JONES of Ohio. Mr. Speaker, I rise to commemorate the newly opened Maltz Museum of Jewish Heritage. I was truly honored to be a part of this legendary event in my Congressional District. The Maltz Museum will serve as an extension of the highly prized collection of religious objects in the Temple-Tifereth in Beachwood, Ohio.

The creation of the museum was made possible through the efforts of Milton and Tamar Maltz, the creators of the International Spy Museum in Washington, DC. They convinced the Temple-Tifereth that they needed a museum to showcase their religious antiques, and provide a better accessible building for a more diverse array of people.

The Maltz Museum tells the history of the Jewish people of Cleveland and of those abroad. The museum uses photographic exhibits to tell their stories on religion, immigration, the Jewish contribution to Broadway, and the unforgettable events of the Holocaust. Videos and interactive computers along with audio tapes bring the past to reality.

On behalf of the people of the 11th Congressional District I celebrate the opening of the Maltz Museum of Jewish Heritage. This museum will serve as a link to connect all people of all religions in the pursuit of knowledge of Jewish religious history and its impact on our community.

CONGRATULATING MARY GRAHAM FOR WINNING THE 2005 PEACEKEEPER'S AWARD

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 2005

Mr. NEY. Mr. Speaker:

Whereas, Mary Graham founded the Belmont County Domestic Violence Taskforce while working for the Belmont County Sheriff's Office; and

Whereas, Mary Graham was a significant asset in developing new protocols for local law enforcement when responding to domestic violence; and

Whereas, Mary Graham has continued in her steadfast devotion to fighting domestic violence after her retirement by serving on the Board of Directors of the Tri-County Help Center and remaining with the Sheriff's Office on retainer.

Therefore, I join with family, friends and the entire 18th Congressional District of Ohio in congratulating Mary Graham for winning this prestigious award.

TRIBUTE TO MAJOR GENERAL FREDERICK E. MORRIS

HON. JOHN L. MICA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 19, 2005

Mr. MICA. Mr. Speaker, it is my honor to pay tribute to Major General Frederick E. Morris, a veteran of World War II and distinguished Air Force pilot. I would also like to extend my deepest sympathies to his family and friends for their loss. General Morris passed away on August 22, 2005, and will be interred at Arlington National Cemetery on October 21, 2005.

General Morris joined the U.S. Army Air Corps as an aviation cadet and was commissioned as a Second Lieutenant in 1942. During the war, he served as a combat pilot in both the European and Pacific Theaters. He flew 66 missions flying B–26, B–25 and A–26 aircraft supporting Allied Forces over North Africa, Europe, China and Japan.

Following World War II he transferred to the newly formed U.S. Air Force and soon became a jet pilot with certification to fly the F–111. Throughout the rest of his 30-year career, General Morris served in various overseas commands as well as at home with the Joint Chiefs of Staff. He retired in a military service at the Pentagon in 1971.

Although he retired from service over three decades ago, his contributions to the defense of our Nation are still evident. In the 1960's, he worked on the Air Force's initial efforts at mass computer record keeping and data processing. Though primitive, those early programs fostered the technology revolution that has forever changed our Nation.

General Morris was the recipient of numerous decorations including the Distinguished Flying Cross, Air Medal and the Joint Service Commendation Medal. He will be greatly missed by his friends and family and today I want to honor his contributions to our entire Nation.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, October 20, 2005 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 25

9 a.m.
Judiciary
To hold hearings to examine U.S.-Saudi Arabia relations relating to the war on terror.
SD–226

9:30 a.m.
Armed Services
To hold hearings to examine the nominations of John J. Young, Jr., of Virginia, to be Director of Defense Research and Engineering, Department of Defense, Dorrance Smith, of Virginia, to be Assistant Secretary of Defense for Public Affairs, Delores M. Etter, of Maryland, to be Assistant Secretary of the Navy for Research, Development and Acquisition, General Burwell B. Bell, III, USA, for reappointment to the grade of general and to be Commander, United Nations Command/Combined Forces Command, and Commander, United States Forces Korea, and Lieutenant General Lance L. Smith, USAF, for appointment to the grade of general and to be Commander, United States Joint Forces Command and Supreme Allied Commander Transformation.
SD–106

Foreign Relations
To hold hearings to examine the nominations of Ellen R. Sauerbrey, of Maryland, to be Assistant Secretary of State for Population, Refugees, and Migration, and Jeffrey Thomas Bergner, of Virginia, to be Assistant Secretary of State for Legislative Affairs.
SD–419

10 a.m.
Banking, Housing, and Urban Affairs
To hold hearings to examine the nominations of Matthew Slaughter, of New Hampshire, and Katherine Baicker, of New Hampshire, each to be a Member of the Council of Economic Advisers, Orlando J. Cabrera, of Florida, to be an Assistant Secretary of Housing and Urban Development, and Gigi Hyland, of Virginia, and Rodney E. Hood, of North Carolina, each to be a Member of the National Credit Union Administration Board.
SD–538

Energy and Natural Resources
To hold hearings to examine S. 1829, to repeal certain sections of the Act of May 26, 1936, pertaining to the Virgin Islands, S. 1830, to amend the Compact of Free Association Amendments Act of 2003, and S. 1831, to convey certain submerged land to the Commonwealth of the Northern Mariana Islands.
SD–366

Appropriations
Interior and Related Agencies Subcommittee
To hold hearings to examine oil and gas activities by the Bureau of Land Management including impact of recently passed energy legislation.
SD–124

2:30 p.m.
Homeland Security and Governmental Affairs
Federal Financial Management, Government Information, and International Security Subcommittee
To hold hearings to examine setting priorities in Federal spending in the context of natural disaster, deficits and war, focusing on funding wasteful and ineffective programs.
SD–342

OCTOBER 26

9 a.m.
Judiciary
To hold hearings to examine the Streamlined Procedures Act relating to Habeas Reform.
SD–226

9:30 a.m.
Indian Affairs
To hold an oversight hearing to examine In Re Tribal Lobbying Matters, Et Al.
SH–216

10:30 a.m.
Judiciary
Terrorism, Technology and Homeland Security Subcommittee
To hold hearings to examine emergency preparedness relating to terrorism.
SD–226

2 p.m.
Energy and Natural Resources
Public Lands and Forests Subcommittee
To hold hearings to examine the implementation of the Federal Lands Recreation Enhancement Act (P.L. 108–447), by the Forest Service and the Department of the Interior.
SD–366

2:30 p.m.
Judiciary
Administrative Oversight and the Courts Subcommittee
To hold hearings to examine proposals to split the Ninth Circuit.
SD–226

OCTOBER 27

9:30 a.m.
Indian Affairs
Business meeting to consider S. 1057, to amend the Indian Health Care Improvement Act to revise and extend that Act, S. 1003, to amend the Act of December 22, 1974, S. 692, to provide for the conveyance of certain public land in northwestern New Mexico by resolving a dispute associated with coal preference right lease interests on the land, a proposed bill to extend the statute of limitations for breach of trust claims, and S. 1219, to authorize certain tribes in the State of Montana to enter into a lease or other temporary conveyance of water rights to meet the water needs of the Dry Prairie Rural Water Association, Inc.
SR–485

10 a.m.
Energy and Natural Resources
To hold hearings to examine Administration's response to hurricane recovery efforts related to energy and to discuss energy policy.
SD–366

Agriculture, Nutrition, and Forestry
Forestry, Conservation, and Rural Revitalization Subcommittee
To hold an oversight hearing to examine the Forest and Rangeland Research Program of the USDA Forest Service.
SR–328A

NOVEMBER 1

2:30 p.m.
Judiciary
To hold hearings to examine pending nominations.
SD–226

NOVEMBER 2

2 p.m.
Energy and Natural Resources
Public Lands and Forests Subcommittee
To hold hearings to examine S. 1541, to protect, conserve, and restore public land administered by the Department of the Interior or the Forest Service and adjacent land through cooperative cost-shared grants to control and mitigate the spread of invasive species, S. 1548, to provide for the conveyance of certain Forest Service land to the city of Coffman Cove, Alaska, S. 1552, to amend Public Law 97–435 to extend the authorization for the Secretary of the Interior to release certain conditions contained in a patent concerning certain land conveyed by the United States to Eastern Washington University until December 31, 2009, and H.R. 482, to provide for a land exchange involving Federal lands in the Lincoln National Forest in the State of New Mexico.
SD–366

NOVEMBER 3

10 a.m.
Energy and Natural Resources
To hold hearings to examine a status report on the Environmental Protection Management programs of the Department of Energy.
SD–366

NOVEMBER 8

10 a.m.
Energy and Natural Resources
To hold hearings to examine the progress made on the development of interim and long-term plans for use of fire retardant aircraft in Federal wildfire suppression operations.
SD–366

2:30 p.m.
Agriculture, Nutrition, and Forestry
Research, Nutrition, and General Legislation Subcommittee
To hold hearings to examine the Pet Animal Welfare Statute.
SR–328A

CANCELLATIONS

OCTOBER 25

9:30 a.m.

Environment and Public Works

Superfund and Waste Management Subcommittee

To hold an oversight hearing on the impact of certain government contractor liability proposals on environmental laws.

SD–406

10:30 a.m.

Judiciary

To hold hearings to examine grand jury reform.

SD–226

NOVEMBER 1

9:30 a.m.

Judiciary

To hold hearings to examine Department of Justice and the Weapons of Mass Destruction Commission Recommendations.

SD–226

Daily Digest

Senate

Chamber Action

Routine Proceedings, pages S11503–S11599

Measures Introduced: Eleven bills and three resolutions were introduced, as follows: S. 1887–1897, S. Res. 280–281, and S. Con. Res. 59. **Page S11559**

Measures Reported:

S. 206, to designate the Ice Age Floods National Geologic Trail, with an amendment in the nature of a substitute. (S. Rept. No. 109–144)

S. 242, to establish 4 memorials to the Space Shuttle Columbia in the State of Texas, with an amendment in the nature of a substitute. (S. Rept. No. 109–145)

S. 584, to require the Secretary of the Interior to allow the continued occupancy and use of certain land and improvements within Rocky Mountain National Park, with an amendment in the nature of a substitute. (S. Rept. No. 109–146)

S. 652, to provide financial assistance for the rehabilitation of the Benjamin Franklin National Memorial in Philadelphia, Pennsylvania, and the development of an exhibit to commemorate the 300th anniversary of the birth of Benjamin Franklin. (S. Rept. No. 109–147)

S. 895, to direct the Secretary of the Interior to establish a rural water supply program in the Reclamation States to provide a clean, safe affordable, and reliable water supply to rural residents, with an amendment in the nature of a substitute. (S. Rept. No. 109–148)

S. 955, to direct the Secretary of the Interior to conduct a special resource study to determine the suitability and feasibility of including in the National Park System certain sites in Williamson County, Tennessee, relating to the Battle of Franklin, with an amendment. (S. Rept. No. 109–149)

S. 958, to amend the National Trails System Act to designate the Star-Spangled Banner Trail in the States of Maryland and Virginia and the District of Columbia as a National Historic Trail, with amendments. (S. Rept. No. 109–150)

S. 1154, to extend the Acadia National Park Advisory Commission, to provide improved visitor services at the park, with amendments. (S. Rept. No. 109–151)

S. 1238, to amend the Public Lands Corps Act of 1993 to provide for the conduct of projects that protect forests, with amendments. (S. Rept. No. 109–152)

S. 1627, to authorize the Secretary of the Interior to conduct a special resources study to evaluate resources along the coastal region of the State of Delaware and to determine the suitability and feasibility of establishing a unit of the National Park System in Delaware. (S. Rept. No. 109–153)

H.R. 126, to amend Public Law 89–366 to allow for an adjustment in the number of free roaming horses permitted in Cape Lookout National Seashore. (S. Rept. No. 109–154)

H.R. 539, to designate certain National Forest System land in the Commonwealth of Puerto Rico as components of the National Wilderness Preservation System. (S. Rept. No. 109–155)

H.R. 584, to authorize the Secretary of the Interior to recruit volunteers to assist with, or facilitate, the activities of various agencies and offices of the Department of the Interior. (S. Rept. No. 109–156)

H.R. 606, to authorize appropriations to the Secretary of the Interior for the restoration of the Angel Island Immigration Station in the State of California. (S. Rept. No. 109–157) **Page S11558**

Measures Passed:

Federal Leave Transfer Program: Senate passed S. 1736, to provide for the participation of employees in the judicial branch in the Federal leave transfer program for disasters and emergencies. **Page S11595**

Supporting Lights On Afterschool: Senate agreed to S. Res. 280, supporting ''Lights On Afterschool'', a national celebration of after school programs. **Page S11595**

Honoring James Patrick Rohan: Senate agreed to S. Res. 281, honoring and thanking James Patrick Rohan. **Page S11596**

Foster Care Maintenance Payments: Senate passed S. 1894, to amend part E of title IV of the

Social Security Act to provide for the making of foster care maintenance payments to private for-profit agencies. **Pages S11596–97**

State High Risk Pool Funding Extension: Senate passed H.R. 3204, to amend title XXVII of the Public Health Service Act to extend Federal funding for the establishment and operation of State high risk health insurance pools, after agreeing to the following amendment proposed thereto: **Pages S11597–98**

McConnell (for Enzi) Amendment No. 2142, in the nature of a substitute. **Page S11598**

Transportation/Treasury/HUD Appropriations: Senate continued consideration of H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, taking action on the following amendments proposed thereto: **Pages S11512–55**

Adopted:

Bond Amendment No. 2113, to limit the availability of funds under this Act for use in paying for eminent domain activities. **Pages S11512–16**

Harkin Amendment No. 2076, to provide that no funds may be used to provide assistance under section 8 of the United States Housing Act of 1937, to certain students at institutions of higher education. **Pages S11549–50**

Bond (for Collins) Amendment No. 2070, to repeal the increased micropurchase threshold. **Page S11550**

Bond (for Akaka/Bingaman) Modified Amendment No. 2101, to provide for an Internal Revenue Service report regarding tax refund procedures and practices. **Page S11550**

Bond (for Boxer) Amendment No. 2139, to ensure that proper precautions are taken by airports and air carriers to recognize and prevent the spread of avian flu. **Page S11550**

Bond (for Inhofe) Modified Amendment No. 2073, to make available funds for ARAC operation and maintenance at Fort Sill, Oklahoma. **Pages S11550–51**

Bond (for Stabenow) Amendment No. 2140, to provide additional funds to support programs established under the LEGACY Act of 2003. **Page S11551**

Bond (for Craig) Modified Amendment No. 2072, to require the use of a sliding scale match ratio for certain transportation projects in the State of Idaho. **Page S11551**

Murray Amendment No. 2141, to require the United States Interagency Council on Homelessness to conduct an assessment of guidance disseminated by agencies for grantees of homeless assistance programs. **Page S11552**

Pending:

Reed Amendment No. 2077, to provide for appropriations for the Low-Income Home Energy Assistance Program. **Pages S11521–26**

Subsequently, a point of order was raised that the emergency designation contained in Reed Amendment No. 2077 (listed above), violated Section 402 of H. Con. Res. 95, Congressional Budget for Fiscal Year 2006; and a motion to waive was then offered. **Page S11525**

Dorgan Amendment No. 2133, to restrict enforcement of the Cuban Assets Control Regulations with respect to travel to Cuba. **Pages S11526–29**

During consideration of this measure today, Senate also took the follow action:

By 47 yeas to 51 nays (Vote No. 257), three-fifths of those Senators duly chosen and sworn, not having voted in the affirmative, Senate rejected the motion to waive section 403(b)(1) of H. Con. Res. 95 of the 109th Congress, with respect to Kennedy Further Modified Amendment No. 2063, to provide for an increase in the Federal minimum wage. Subsequently, the point of order that the amendment constitutes an unfunded mandate was sustained, and the amendment thus fell. **Pages S11529–45, S11547**

By 42 yeas to 57 nays (Vote No. 258), three-fifths of those Senators duly chosen and sworn, not having voted in the affirmative, Senate rejected the motion to waive section 403(b)(1) of H. Con. Res. 95 of the 109th Congress, with respect to Enzi Amendment No. 2115, to promote job creation, and small business preservation in the adjustment of the Federal minimum wage. Subsequently, the point of order that the amendment constitutes an unfunded mandate was sustained, and the amendment thus fell. **Pages S11547–48**

By 44 yeas to 54 nays (Vote No. 259), two-thirds of those Senators duly chosen and sworn, not having voted in the affirmative, Senate rejected the motion to suspend paragraph 4, Rule XVI, pursuant to notice previously given in writing, relative to Dorgan Amendment No. 2078, to establish a special committee of the Senate on war and reconstruction contracting. Subsequently, the Chair sustained the point of order that the amendment was in violation of Rule XVI of the Standing Rules of the Senate which prohibits legislation on appropriations matters, and the amendment thus fell. **Pages S11545–49**

Chair sustained the point of order against Dayton Amendment No. 2123, to prevent gas and oil gouging during natural disasters; that the amendment violated Rule XVI of the Standing Rules of the Senate which prohibits legislation on an appropriation bill. **Pages S11551–52**

A unanimous-consent agreement was reached providing for further consideration of the bill at approximately 9:30 a.m. on Thursday, October 20, 2005. **Page S11598**

Medicare Cost Sharing and Welfare Extension: Senate concurred in the amendments of the House to the Senate amendment to H.R. 3971, to extend medicare cost-sharing for qualifying individuals through September 2007, to extend transitional medical assistance and the program for abstinence education through December 2005, to provide unemployment relief for States and individuals affected by Hurricane Katrina, clearing the measure for the President. **Page S11595**

Signing Authority: A unanimous-consent agreement was reached providing that during the adjournment of the Senate, the Majority Leader and the junior Senator from Oklahoma, be authorized to sign duly enrolled bills. **Page S11595**

Appointments:

National Surface Transportation Policy and Revenue Study Commission: The Chair, on behalf of the Democratic Leader, pursuant to Public Law 109–59, Sec. 1909(b)(2)(A)(vi), appointed the following individuals to serve as members of the National Surface Transportation Policy and Revenue Study Commission: Francis McArdle of New York, and Tom R. Skancke of Nevada. **Page S11595**

Messages From the President: Senate received the following message from the President of the United States:

Transmitting, pursuant to law, a report relative to the continuation of the national emergency declared in Executive Order 12978 with respect to significant narcotics traffickers centered in Colombia; which was referred to the Committee on Banking, Housing, and Urban Affairs. (PM–27) **Page S11557**

Nominations Received: Senate received the following nominations:

Anne W. Patterson, of Virginia, to be an Assistant Secretary of State (International Narcotics and Law Enforcement Affairs).

1 Air Force nomination in the rank of general.

A routine list in the Army. **Page S11599**

Messages From the House: **Page S11557**

Measures Referred: **Page S11557**

Enrolled Bills Presented: **Page S11557**

Executive Communications: **Pages S11557–58**

Executive Reports of Committees: **Pages S11558–59**

Additional Cosponsors: **Pages S11559–61**

Statements on Introduced Bills/Resolutions: **Pages S11561–79**

Additional Statements: **Page S11556**

Amendments Submitted: **Pages S11579–94**

Notices of Hearings/Meetings: **Page S11594**

Authority for Committees to Meet: **Pages S11594–95**

Privilege of the Floor: **Page S11595**

Record Votes: Three record votes were taken today. (Total—259) **Pages S11547, S11548–49**

Adjournment: Senate convened at 9:30 a.m., and adjourned at 6:55 p.m., until 9:30 a.m., on Thursday, October 20, 2005. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S11599.)

Committee Meetings

(Committees not listed did not meet)

BUSINESS MEETING

Committee on Agriculture, Nutrition, and Forestry: Committee completed its review of certain spending reductions and revenue increases to meet reconciliation expenditures as imposed by H. Con. Res. 95, establishing the congressional budget for the United States Government for fiscal year 2006, revising appropriate budgetary levels for fiscal year 2005, and setting forth appropriate budgetary levels for fiscal years 2007 through 2010, and agreed on recommendations which it will make to the Committee on the Budget thereon.

STEM CELL RESEARCH

Committee on Appropriations: Subcommittee on Labor, Health and Human Services, Education, and Related Agencies concluded a hearing to examine the potential of stem cell and nuclear transplantation research, focusing on related provisions of S. 471, to amend the Public Health Service Act to provide for human embryonic stem cell research, H.R. 810, to amend the Public Health Service Act to provide for human embryonic stem cell research, and S. 876, to prohibit human cloning and protect stem cell research, after receiving testimony from Judith Gasson, University of California, Comprehensive Cancer Center, Los Angeles; Steven Teitelbaum, Washington University, St. Louis, Missouri; John Wagner, University of Minnesota Medical School Stem Cell Institute, Minneapolis; Rudolf Jaenisch, Massachusetts Institute of Technology, Cambridge; and Anthony Herrera, New York, New York.

BUSINESS MEETING

Committee on Energy and Natural Resources: Committee completed its review of certain spending reductions

and revenue increases to meet reconciliation expenditures as imposed by H. Con. Res. 95, establishing the congressional budget for the United States Government for fiscal year 2006, revising appropriate budgetary levels for fiscal year 2005, and setting forth appropriate budgetary levels for fiscal years 2007 through 2010, and agreed on recommendations which it will make to the Committee on the Budget thereon.

U.S.-IRAQ POLICY

Committee on Foreign Relations: Committee concluded a hearing to examine United States foreign policy relating to Iraq, focusing on United States' objectives and strategies to improve security, and advance political development and economic progress in Iraq, and to discuss the recent Constitutional referendum, and assess the enemies progress in Iraq, after receiving testimony from Condoleezza Rice, Secretary of State.

NOMINATION

Committee on Foreign Relations: Committee concluded a hearing to examine the nomination of David M. Hale, of New Jersey, to be Ambassador to the Hashemite Kingdom of Jordan, after the nominee testified and answered questions in his own behalf.

BUSINESS MEETING

Committee on Health, Education, Labor, and Pensions: Committee ordered favorably reported the business items:

S. 1873, to prepare and strengthen the biodefenses of the United States against deliberate, accidental, and natural outbreaks of illness, with an amendment in the nature of a substitute; and

The nominations of Mark Hofflund, of Idaho, to be a Member of the National Council on the Arts, Naomi Churchill Earp, of Virginia, and Christine M. Griffin, of Massachusetts, each to be a Member of the Equal Employment Opportunity Commission, Jan Cellucci, of Massachusetts, Sandra Frances Ashworth, of Idaho, and Diane Rivers, of Arkansas, each to be a Member of the National Commission on Libraries and Information Science, Bertha K. Madras, of Massachusetts, to be Deputy Director for Demand Reduction, Office of National Drug Control Policy, Mark S. Schneider, of the District of Columbia, to be Commissioner of Education Statistics, Department of Education, Bruce Cole, of Indiana, to be Chairperson of the National Endowment for the Humanities, and John O. Agwunobi, of Florida, to be Assistant Secretary of Health and Human Services for Health.

Also, Committee completed its review of certain spending reductions and revenue increases to meet reconciliation expenditures as imposed by H. Con. Res. 95, establishing the congressional budget for the United States Government for fiscal year 2006, revising appropriate budgetary levels for fiscal year 2005, and setting forth appropriate budgetary levels for fiscal years 2007 through 2010, and agreed on recommendations which it will make to the Committee on the Budget thereon.

REPORTERS' PRIVILEGE

Committee on the Judiciary: Committee concluded a hearing to examine issues and implications regarding reporters' privilege legislation, focusing on S. 1419, 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, after receiving testimony from Chuck Rosenberg, United States Attorney for the Southern District of Texas, Department of Justice; Judith Miller, The New York Times, and David Westin, ABC News, both of New York, New York; Joseph E. diGenova, diGenova & Toensing LLP, Washington, D.C.; Anne K. Gordon, The Philadelphia Inquirer, Philadelphia, Pennsylvania; Dale Davenport, The Patriot-News, Harrisburg, Pennsylvania; and Steven D. Clymer, Cornell Law School, Ithaca, New York.

VIDEO COMPETITION

Committee on the Judiciary: Subcommittee on Antitrust, Competition, and Business and Consumer Rights concluded a hearing to examine video competition in 2005, focusing on the impact for consumers of the acquisition of Adelphia by Comcast and Time Warner, policies to ensure new competitors in the video market, and the transformation in the cable industry including new products and more choices as cable operators compete, after receiving testimony from Glenn A. Britt, Time Warner Cable, Stamford, Connecticut; Kyle McSlarrow, National Cable and Telecommunications Association, Walter B. McCormick, Jr., United States Telecom Association, Scott Cleland, Precursor, and Mark Cooper, Consumer Federation of America, all of Washington, D.C.; Doron Gorshein, The America Channel, LLC, Heathrow, Florida; and Peter D. Aquino, RCN Corporation, Herndon, Virginia.

INTELLIGENCE

Select Committee on Intelligence: Committee met in closed session to receive a briefing on certain intelligence matters from officials of the intelligence community.

House of Representatives

Chamber Action

Public Bills and Resolutions Introduced: 13 public bills, H.R. 4077–4089; and 3 resolutions, H. Res. 501–503 were introduced. **Pages H8985–86**

Additional Cosponsors: **Page H8986**

Reports Filed: There were no reports filed today.

Speaker: Read a letter from the Speaker wherein he appointed Representative Miller of Michigan to act as Speaker pro tempore for today. **Page H8921**

Chaplain: The prayer was offered today by Rev. Joseph L. Logrip, Pastor, Immaculate Conception Church, Levittown, Pennsylvania. **Page H8921**

Personal Responsibility in Food Consumption Act of 2005: The House passed H.R. 554, to prevent legislative and regulatory functions from being usurped by civil liability actions brought or continued against food manufacturers, marketers, distributors, advertisers, sellers, and trade associations for claims of injury relating to a person's weight gain, obesity, or any health condition associated with weight gain or obesity, by a yea-and-nay vote of 306 yeas to 120 nays, Roll No. 533. **Pages H8925–40**

Pursuant to the rule, the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill shall be considered as an original bill for the purpose of amendment. **Page H8930**

Agreed to:

Sensenbrenner Manager's amendment (No. 1 printed in H. Rept. 109–249) which makes technical changes to the section of the bill that sets out the types of information a plaintiff must provide to a judge to allow the court to determine whether the lawsuit should proceed or be dismissed. It clarifies that the pleading provision in H.R. 554 is meant to apply to all cases seeking obesity-related damages. The amendment adds the phrase "for each defendant and cause of action" to clarify that a judge must apply H.R. 554's pleading requirements to each specific claim. This prevents a plaintiff from improperly using a claim that is not barred by H.R. 554 as a means of pursuing obesity-related claims that are barred by H.R. 554 against the same or other defendants. **Page H8931**

Rejected:

Jackson-Lee of Texas amendment (No. 2 printed in H. Rept. 109–249) which sought to prohibit the food industry from initiating lawsuits against any person for damages or other relief due to injury or potential injury based on a person's consumption of a qualified food product and weight gain, obesity, or any health condition that is associated with a person's weight gain or obesity (by a recorded vote of 67 ayes to 357 noes, Roll No. 529); **Pages H8931–33, H8937**

Filner amendment (No. 3 printed in H. Rept. 109–249) which sought to exempt those who are age eight and under from the provisions of this Act as it relates to large chain outlets (by a recorded vote of 129 ayes to 298 noes, Roll No. 530); **Pages H8933–34, H8937–38**

Scott of Virginia amendment (No. 4 printed in H. Rept. 109–249) which sought to exempt State law enforcement actions from the impact of the legislation to ensure that Attorneys General and State agencies can enforce State consumer protection laws concerning mislabeling or other unfair and deceptive trade practices (by a recorded vote of 192 ayes to 234 noes, Roll No. 531); and **Pages H8934–35, H8938–39**

Waxman amendment (No. 5 printed in H. Rept. 109–249) which sought to exempt lawsuits involving a dietary supplement relating to a person's weight gain, obesity or any health condition associated with weight gain or obesity (by a recorded vote of 177 ayes to 247 noes, Roll No. 532). **Pages H8935, H8939**

The amendment in the nature of a substitute, as amended, was adopted. **Page H8939**

H. Res. 494, the rule providing for consideration of the bill was agreed to on Tuesday, October 18th.

Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2006—Motion to go to Conference: The House disagreed to the Senate amendment and agreed to a conference on H.R. 2744, to make appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006. **Pages H8940–46**

Further proceedings on the DeLauro motion to instruct conferees on H.R. 2744, were postponed until tomorrow, Thursday, October 20th. **Page H8946**

Suspensions: The House agreed to suspend the rules and pass the following measure:

Providing for the concurrence by the House with amendments in the amendment of the Senate to H.R. 3971: H. Res. 501, to provide for the concurrence by the House with amendments in the amendment of the Senate to H.R. 3971. **Pages H8946–50**

Recess: The House recessed at 2:23 p.m. and reconvened at 4:15 p.m. **Page H8950**

Presidential Message: Read a message from the President concerning a notice of the Continuation of the National Emergency with Respect to Significant Narcotics Traffickers Centered in Colombia—referred to the Committee on International Relations and ordered printed (H. Doc. 109–61). **Page H8951**

Senate Messages: Messages received from the Senate today appear on pages H8933 and H8979.

Senate Referrals: S. 1886 was referred to Committee on International Relations. **Page H8983**

Quorum Calls—Votes: One yea-and-nay vote and four recorded votes developed during the proceedings of today and appear on pages H8937, H8937–38, H8938–39, H8939 and H8940. There were no quorum calls.

Adjournment: The House met at 10 a.m. and adjourned at 9:05 p.m.

Committee Meetings

DEFENSE HEALTH PROGRAM OVERVIEW

Committee on Armed Services: Subcommittee on Military Personnel held a hearing on the defense health program overview. Testimony was heard from the following officials of the Department of Defense: William Winkenwerder, Jr., M.D., Assistant Secretary, Health Affairs; MG Joseph G. Webb, Jr., USA, Deputy Surgeon General, Department of the Army; VADM Donald C. Arthur, USN, Surgeon General, Department of the Navy; and LTG George P. Taylor, USAF, Surgeon General, Department of the Air Force; and public witnesses.

BUDGET RECONCILIATION; PERSONAL RESPONSIBILITY, WORK, AND FAMILY PROMOTION ACT

Committee on Education and the Workforce: Began mark up of amendments to the Social Security Act, Welfare Reform regarding the Committee's Instructions pursuant to the Conference Report on H. Con. Res. 95, Establishing the congressional budget for the United States Government for fiscal year 2006, revising appropriate budgetary levels for fiscal year 2005, and setting forth appropriate budgetary levels for fiscal years 2007 through 2010, H. R. 240, Personal Responsibility, Work, and Family Promotion Act of 2005.

Will continue tomorrow.

PROTECTING PROPERTY RIGHTS AFTER KELO

Committee on Energy and Commerce: Subcommittee on Commerce, Trade, and Consumer Protection held a hearing entitled "Protecting Property Rights After Kelo." Testimony was heard from public witnesses.

ENERGY/WINTER FUELS OUTLOOK

Committee on Energy and Commerce: Subcommittee on Energy and Air Quality held a hearing entitled "EIA's Report on Short-term Energy Outlook and Winter Fuels Outlook." Testimony was heard from Guy F. Caruso, Administrator, Energy Information Administration, Department of Energy.

PETROLEUM REFINERY CAPACITY INVESTMENTS

Committee on Government Reform: Subcommittee on Energy and Resources held a hearing entitled "Petroleum Refineries: Will Record Profits Spur Investment in New Capacity?" Testimony was heard from public witnesses.

FEDERALISM AND DISASTER RESPONSE

Committee on Homeland Security: Held a hearing entitled " Federalism and Disaster: Response: Examining the Rules and Responsibilities of Local, State, and Federal Agencies." Testimony was heard from the following Governors: Jeb Bush, Florida; Rick Perry, Texas; and Janet Napolitano, Arizona; and public witnesses.

HOMELAND SECURITY DEPARTMENT—ROLE OF CHIEF INTELLIGENCE OFFICER

Committee on Homeland Security: Subcommittee on Intelligence, Information Sharing, and Terrorism Risk Assessment and the Subcommittee on Terrorism, Human Intelligence, Analysis and Counterintelligence of the Permanent Select Committee on Intelligence, joint hearing entitled "The Department of Homeland Security Second Stage Review: The Role of the Chief Intelligence Officer." Testimony was heard from Charles Allen, Chief Intelligence Officer, Department of Homeland Security; and a public witness.

CARIBBEAN REGION POLICY REVIEW

Committee on International Relations: Subcommittee on the Western Hemisphere held a hearing on Policy Overview of the Caribbean Region. Testimony was heard from the following officials of the Department of State: Adolfo A. Franco, Assistant Administrator, Bureau for Latin America and the Caribbean, U.S. Agency for International Development; and Dan Fisk, Deputy Assistant Secretary, Bureau of Western Hemisphere Affairs; and public witnesses.

MISCELLANEOUS MEASURES

Committee on Resources: Ordered reported the following measures: H. Con. Res. 267, amended, Expressing the sense of the Congress upholding the Makah Tribe treaty rights; H.R. 323, To redesignate the Ellis Island Library on the third floor of the Ellis Island Immigration Museum, located on Ellis Island

in New York Harbor, as the "Bob Hope Memorial Library;" H.R. 326, amended, 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. 679, To direct the Secretary of the Interior to convey a parcel of real property to Beaver County, Utah; H.R. 1096, amended, Act Commemorating the LITE; H.R. 1183, To require the Secretary of the Interior to provide public access to Navassa National Wildlife Refuge and Desecheo National Wildlife Refuge; H.R. 1436, To remove certain use restrictions on property located in Navajo County, Arizona; H.R. 1564, Yakima-Tieton Irrigation District Conveyance Act of 2005; H.R. 1972, amended, Franklin National Battlefield Study Act; H.R. 3443, To direct the Secretary of the Interior to convey certain water distribution facilities to the Northern Colorado Water Conservancy District; H.R. 3818, amended, Forest Service Partnership Enhancement Act of 2005; and S. 229, Albuquerque Biological Park Title Clarification Act.

STATUS—OFFICE OF DIRECTOR OF NATIONAL INTELLIGENCE

Permanent Select Committee on Intelligence: Subcommittee on Oversight held a hearing entitled "Status of the Office of the Director of National Intelligence." Testimony was heard from former Speaker of the House Newt Gingrich of Georgia; and public witnesses.

HURRICANE KATRINA

Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina: Continued hearings on Hurricane Katrina. Testimony was heard from Michael Chertoff, Secretary of Homeland Security.

NEW PUBLIC LAWS

(For last listing of Public Laws, see DAILY DIGEST, *P. D1039)*

H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006. Signed on October 18, 2005. (Public Law 109–90)

COMMITTEE MEETINGS FOR THURSDAY, OCTOBER 20, 2005

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Banking, Housing, and Urban Affairs: to resume hearings to examine the implementation of the Exon-Florio provision by the Committee on Foreign Investment in the United States (CFIUS), Department of the Treasury, which seeks to serve U.S. investment policy through reviews that protect national security while maintaining the credibility of open investment policy, 10 a.m., SD–538.

Committee on Commerce, Science, and Transportation: to hold hearings to examine S. 1052, to improve transportation security, including public and private sector actions taken since September 11, 2001, and the attacks on rail systems overseas, to enhance the security of passenger and freight rail transportation, 10 a.m., SD–562.

Full Committee, business meeting to consider proposed DTV bill, S. 1753, to establish a unified national hazard alert system, S. 967, to amend the Communications Act of 1934 to ensure that prepackaged news stories contain announcements that inform viewers that the information within was provided by the United States Government, and S. 1063, to promote and enhance public safety and to encourage the rapid deployment of IP-enabled voice services, 2 p.m., SR–325.

Committee on Energy and Natural Resources: to hold hearings to examine S. 1016, to direct the Secretary of Energy to make incentive payments to the owners or operators of qualified desalination facilities to partially offset the cost of electrical energy required to operate the facilities, and S. 1860, to amend the Energy Policy Act of 2005 to improve energy production and reduce energy demand through improved use of reclaimed waters, 2:30 p.m., SD–366.

Committee on Foreign Relations: to hold hearings to examine the nominations of Benson K. Whitney, of Minnesota, to be Ambassador to Norway, Roland Arnall, of California, to be Ambassador to the Kingdom of the Netherlands, Susan Rasinski McCaw, of Washington, to be Ambassador to the Republic of Austria, and Nicholas F. Taubman, of Virginia, to be Ambassador to Romania, 9:30 a.m., SD–419.

Subcommittee on Near Eastern and South Asian Affairs, to hold hearings to examine U.S. foreign policy, petroleum, and the Middle East, 2:30 p.m., SD–419.

Committee on Health, Education, Labor, and Pensions: to hold hearings to examine Federal employment programs for persons with disabilities, 2 p.m., SD–106.

Committee on Homeland Security and Governmental Affairs: to hold hearings to examine the response to Hurricane Katrina in New Orleans, 9:30 a.m., SD–342.

Committee on the Judiciary: business meeting to consider pending calendar business, 9:30 a.m., SD–226.

Subcommittee on Constitution, Civil Rights and Property Rights, to hold hearings to examine the constitutional amendment on marriage, 2 p.m., SD–226.

Committee on Veterans' Affairs: to hold hearings to examine IT Management by the VA, 10 a.m., SR–418.

Select Committee on Intelligence: to receive a closed briefing regarding certain intelligence matters, 2:30 p.m., SH–219.

House

Committee on Appropriations, Subcommittee on Military Quality of Life, and Veterans Affairs, and Related Agencies, hearing on VA Capital Asset Realignment for Enhanced Services (CARES), 10:30 a.m., H–143 Capitol.

Committee on Armed Services, hearing on the Army's M1114 Up-Armor High Mobility Multipurpose Wheeled Vehicle (UAH) distribution strategy, 9 a.m., 2118 Rayburn.

Subcommittee on Tactical Air and Land Forces and the Subcommittee on Technical and Tactical Intelligence of the Permanent Select Committee on Intelligence, joint hearing on the Aerial Common Sensor Program, 4 p.m., 2118 Rayburn.

Committee on Education and the Workforce, to continue mark up of amendments to the Social Security Act, Welfare Reform regarding the Committee's Instructions pursuant to the Conference Report on H. Con. Res. 95, Establishing the congressional budget for the United States Government for fiscal year 2006, revising appropriate budgetary levels for fiscal year 2005, and setting forth appropriate budgetary levels for fiscal years 2007 through 2010, and H.R. 240, Personal Responsibility, Work, and Family Promotion Act of 2005 and to mark up H. Res. 467, Requesting that the President transmit to the House of Representatives information in his possession relating to contracts for services or construction related to Hurricane Katrina recovery that relate to wages and benefits to be paid to workers, 9:30 a.m., 2175 Rayburn.

Committee on Energy and Commerce, Subcommittee on Health and the Subcommittee on Environment and Hazardous Materials, joint hearing entitled ''Comprehensively Combating Methamphetamines: Impacts on Health and the Environment,'' 10 a.m., 2123 Rayburn.

Committee on Financial Services, Subcommittee on Housing and Community Opportunity, hearing entitled ''Management and Oversight of the National Flood Insurance Program,'' 10 a.m., 2128 Rayburn.

Committee on Government Reform, hearing entitled ''The Critical Role of the National Guard at Home and Abroad,'' 10 a.m., and to consider the following: H.R. 3256, To designate the facility of the United States Postal Service located at 3038 West Liberty Avenue in Pittsburgh, Pennsylvania, as the ''Congressman James Grove Fulton Memorial Post Office Building;'' H.R. 3368, To designate the facility of the United States Postal Service located at 6483 Lincoln Street in Gagetown, Michigan, as the ''Gagetown Veterans Memorial Post Office;'' H.R. 3548, To designate the facility of the United States Postal Service located on Franklin Avenue in Pearl River, New York, as the ''Heinz Ahlmeyer, Jr., Post Office Building;'' H.R. 3770, 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;'' H.R. 3825, To designate the facility of the United States Postal Service located at 770 Trumbull Drive in Pittsburgh, Pennsylvania, as the ''Clayton J. Smithy Memorial Post Office Building;'' H.R. 3989, To designate the facility of the United States Postal Service located at 37598 Goodhue in Dennison, Minnesota, as the ''Albert Harold Quie Post Office;'' H.R. 4053, To designate the facility of the United States Postal Service located at 545 North Rimsdale Avenue in Covina, California, as the ''Lillian Kinkella Keil Post Office;'' S. 37, To extend the special postage stamp for breast cancer research for 2 years; H.R. 3134, Federal Real Property Disposal Pilot Program and Management Improvement Act of 2005; H.R. 1455, To amend titled 45 and title 3, United States Code, to include the Department of Homeland Security and the Secretary of Homeland Security in the lists of executive departments and officers; H.R. 3496, National Capital Transportation Amendments Act of 2005; and H.R. 4057, To provide that attorneys employed by the Department of Justice shall be eligible for compensatory time of for travel under section 5550b of title 5, United States Code.

Committee on Homeland Security, Subcommittee on Economic Security, Infrastructure Protection, and Cybersecurity, hearing entitled ''The London Bombings: Protecting Civilian Targets from Terrorist Attacks,'' 3 p.m., 311 Cannon.

Subcommittee on Prevention of Nuclear and Biological Attack, hearing entitled ''Mitigating Catastrophic Events through Effective Medical Response,'' 1 p.m., 1310 Longworth.

Committee on International Relations, Subcommittee on Africa, Global Human Rights and International Operations, hearing on African Growth and Opportunity Act: A Five-Year Assessment, 10:30 a.m., 2172 Rayburn.

Subcommittee on Asia and the Pacific, hearing on South Asia Earthquake: Impact and Humanitarian Response, 1:30 p.m., 2172 Rayburn.

Committee on the Judiciary, Subcommittee on the Constitution, oversight hearing entitled ''An Examination of the Scope and Criteria for Coverage under the Special Provisions of the Voting Rights Act,'' 10 a.m., 2141 Rayburn.

Committee on Resources, Subcommittee on Water and Power, oversight hearing entitled ''Water Supply Vulnerabilities in the Sacramento/San Joaquin River System,'' 1 p.m., 1324 Longworth.

Committee on Science, hearing on Science, Technology, and Global Economic Competitiveness, 10 a.m., 2318 Rayburn.

Committee on Transportation and Infrastructure, Subcommittee on Highways, Transit and Pipelines, oversight hearing on Rebuilding Highway and Transit Infrastructure on the Gulf Coast following Hurricane Katrina, 2 p.m., 2167 Rayburn.

Subcommittee on Water Resources and Environment, oversight hearing entitled ''Expert Views on Hurricane and Flood Protection and Water Resources Planning for a Rebuilt Gulf Coast,'' 10 a.m., 2167 Rayburn.

Committee on Veterans' Affairs, to mark up the following bills: H.R. 3665, Veterans Housing Improvement Act of 2005; H.R. 1691, To designate the Department of Veterans Affairs outpatient clinic in Appleton, Wisconsin, as the ''John H. Bradley Department of Veterans Affairs Outpatient Clinic;'' and H.R. 4061, Department of Veterans Affairs Information Technology Management Improvement Act of 2005, 2 p.m., 334 Cannon.

Subcommittee on Disability Assistance and Memorial Affairs, oversight hearing on variances in disability compensation claims decisions made by the VA Regional Offices, the Post Traumatic Stress Disorder claims review; and United States Court of Appeals for the Federal Circuit decision *Allen* v *Principi,* 10:30 a.m., 340 Cannon.

Permanent Select Committee on Intelligence, executive, Briefing on Global Updates/Hotspots, 9 a.m., H–405 Capitol, and executive, Briefing on Aerial Common Sensor Program, 4 p.m., 2212 Rayburn.

Joint Meetings

Joint Economic Committee: To hold hearings to examine the current economic outlook, 10 a.m., 311 CHOB.

Next Meeting of the SENATE

9:30 a.m., Thursday, October 20

Senate Chamber

Program for Thursday: Senate will continue consideration of H.R. 3058, Transportation, Treasury, HUD, Judiciary, DC Appropriations.

Next Meeting of the HOUSE OF REPRESENTATIVES

10 a.m., Thursday, October 20

House Chamber

Program for Thursday: To be announced.

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