



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 107th CONGRESS, SECOND SESSION

Vol. 148

WASHINGTON, THURSDAY, APRIL 11, 2002

No. 39

House of Representatives

The House met at 10 a.m.

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

May divine light and eternal truth be with us now and forever.

You have awakened us from the darkness of night and the sleep of unconsciousness. May we walk now in the brightness of a new day. Fill us with soundness of purpose and the strength of companions as we take up the ordinary responsibilities of life and the challenges set before us.

Leaving the forgetfulness of sleep behind, make us keenly aware of the world in which we live and will move about. Help us to embrace the deepest needs of those around us. When we are able, may we respond to them with generous hearts. When we are helpless, may we not dismiss them into the darkness but hold their concerns in the furnace of our hearts.

Let us prepare ourselves for the struggle of today by innocence of heart, integrity of faith, and dedication to virtue. As we make our way into the future, may we seek partners in peace today and respond justly and honestly to everyone. May we simply become creative instruments with each other to shape a new day for America and the world.

May divine light and eternal truth be with us now and forever. Amen.

THE JOURNAL

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

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

Mr. McNULTY. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

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

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

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

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Kansas (Mr. TIAHRT) come forward and lead the House in the Pledge of Allegiance.

Mr. TIAHRT led the Pledge of Allegiance as follows:

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

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain 10 one-minute speeches on each side.

HONORING THE WOMEN OF TOMORROW PROGRAM

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

Ms. ROS-LEHTINEN. Mr. Speaker, I rise to congratulate the Women of Tomorrow program, a mentoring and scholarship program for high school-age girls.

News anchor, Jennifer Valoppi, and Don Browne, president and general manager of NBC 6, co-founded this organization which successfully outreaches to young women wishing to further their educational and career goals.

Today, Women of Tomorrow mentors low-income, at-risk girls in almost every public school in Miami-Dade and Broward counties. This Saturday, NBC 6, Ocean Drive Magazine, and Jennifer Valoppi are hosting a benefit to further the work of Women of Tomorrow and to honor the assistance of Don and Marie Browne, Marita Srebnick and George Feldenkreis, Jerry and Sandi Powers, and State Attorney Kathy Fernandez-Rundle.

Mr. Speaker, I ask that my colleagues join me in congratulating Women of Tomorrow for touching the lives of so many young girls and making significant contributions to the promise of tomorrow.

BRING LUDWIG KOONS HOME

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

Mr. LAMPSON. Mr. Speaker, I wonder what Ludwig Koons is doing this morning. Perhaps he is watching his mother get ready for work by taking her clothes off for a pornographic photo shoot or get ready for an erotic sex show.

A couple of weeks ago I called the State Department and asked them what they were going to do to help fight Italy, who is totally disregarding the welfare of Ludwig Koons. I asked for Secretary Powell. I did not get to speak with him but soon thereafter received a list of actions that the State Department has taken on behalf of Ludwig Koons. The actions include on April 22, 2000, the State Department sends Jeff Koons, the father, a recap of the activity on the case. Thanks. On September 21, 2000, the Consul General, Charles Keil, replies to an inquiry from the gentlewoman from New York (Mrs. MALONEY). Thanks. On October 17, 2000, the State Department calls Mr. Koons and agrees to talk to his attorney. Thanks.

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

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



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This is what the State Department calls action? If any of us took action like that, we could not get reelected. That is what our constituents would do.

I want to send a strong message today to the State Department and to Secretary Powell. Congress will not stand for this any longer. American citizens, including Ludwig Koons, are being held captive. It is your job to bring our children home.

FUNDAMENTAL TAX REFORM

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

Mr. LINDER. Mr. Speaker, today is the last legislative day before the glorious tax day on Monday when all Americans happily come together for the good of their country. Let me state some facts about the tax system.

Americans will collectively spend 6 billion hours complying with the Tax Code, which is not surprising, since the most basic tax form, the 1040 EZ, has 32 pages of instructions. Tax compliance costs estimated at approximately \$250 billion a year will be \$900 for every man, woman, and child in America.

The IRS will receive 100 million phone calls for assistance and the answers that they give when you get through are wrong 47 percent of the time. There are five different definitions of a child in Federal tax law with 200 pages of instructions interpreting those definitions. One dollar's worth of gasoline includes 48 cents in taxes. A \$1.14 loaf of bread reflects 35 cents in taxes. Eighteen cents of a 50-cent can of soda goes to taxes. A \$153 utility bill consists of approximately \$39 in taxes.

Mr. Speaker, in a recent poll Americans were more afraid of receiving an IRS audit notice than anthrax. It is time to end the code.

KELLER-SHAW BILL SUPPORTS OUR TROOPS

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

Mr. KELLER. Mr. Speaker, I rise today to announce the filing of the Keller-Shaw Combat Pay for Combat Risk Act of 2002. How does it work?

If our troops are deployed in support of Operation Enduring Freedom and they are receiving hazardous duty pay, they will not have to pay any Federal income taxes. Currently, we have troops in the Philippines, Malaysia, and Indonesia who are at risk of combat in their fight against terrorism who are still paying income taxes.

The Keller-Shaw bill will fix this discrepancy and not tax their pay. I urge my colleagues to support our U.S. troops who are fighting terrorism abroad, and call my office today to sign on as a co-sponsor to this important bipartisan legislation, H.R. 4152.

RETURN MARTIN AND GRACIA BURNHAM

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

Mr. TIAHRT. Mr. Speaker, today marks the 320th day that Martin and Gracia Burnham have been held captive by Muslim terrorists in the Philippines. I had hoped to return to this podium after the recess and tell you the great news of Martin and Gracia's release.

It has been customary in the Philippines for hostages to be released over the Easter holidays, so I was hopeful that the Burnhams would be released. Sadly, their children, Jeff and Mindy and Zack, celebrated another holiday without their beloved parents and without any communications from their parents.

Martin and Gracia are still being held by savages with no regard for human life. Devout Christians who strongly believe that every life is precious, the Burnhams have learned early on that terrorists place no worth on human life as they watched their fellow captives become beheaded.

On September 11, Americans were confronted with this reality. Daily in Israel and in Palestine people are disgusted by the evidence of these realities. President Bush is absolutely right when he declares terrorists as evil. This evil force is on the offensive around the world. But evil is not stronger than good. Hate is not stronger than love. Americans love human life, and so it is our duty to eradicate terrorism and promote the respect for life.

I ask as always for you to join in prayer with me for Martin and Gracia Burnham and their loved ones so this nightmare may soon be over.

TEN COMMANDMENTS DEFENSE ACT

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

Mr. PITTS. Mr. Speaker, if we look at the wall around us, we see medallions of famous law givers. We see profiles of Hammurabi, Napoleon, and Madison. But dead center facing forward, full face, is the greatest of all law givers, Moses. Moses, who received the Ten Commandments engraved on two tablets, the 10 laws that form the legal and moral foundations of Western Civilization itself.

Back home in Chester County, Pennsylvania, we also honor the Ten Commandments; and for over 80 years, the plaque listing the Ten Commandments has hung on the outside wall of our county courthouse. But now a Federal judge wants the plaque removed. He says it violates the separation of church and state. I have read the Constitution. I have never seen anything

about a ban on the Ten Commandments in the Constitution.

James Madison, the author of the first amendment, which guarantees freedom of religion, said, "We have staked the future of all our political institutions upon the capacity of each and all of us to govern ourselves, to control ourselves, to sustain ourselves according to the Ten Commandments of God."

Mr. Speaker, we should pass the Ten Commandments Defense Act.

300TH ANNIVERSARY OF KING WILLIAM COUNTY, VIRGINIA

(Mrs. JO ANN DAVIS of Virginia asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I rise today in commemoration of the 300th anniversary of King William County in Virginia's First Congressional District. Nestled between the beautifully extraordinary waters of the Pamunkey and Mattaponi Rivers lies the 286 square miles of rolling farmland and scenic timberland that embodies King William County.

This unique county enjoys many notable attributes that distinguish King William within Virginia. Home to the only native American Indian reservations in the Commonwealth, to the oldest courthouse in continuous use in the United States, and to Carter Braxton, signer of the Declaration of Independence, King William County is deeply rooted with historical significance.

An April 11 birthday ceremony inaugurates King William County's Tricentennial Celebration that continues with numerous activities throughout 2002. Marking the county's 300 year milestone, this celebration is an important commemoration of the county's dual heritage of colonial and Native American roots. I am proud to recognize the rich treasure of King William's past and much prosperity in the future.

BI-LO, A PROVEN COMMUNITY LEADER

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

Mr. WILSON of South Carolina. Mr. Speaker, sometimes businesses become so interwoven within a community they become like family. Bi-Lo, a rapidly growing supermarket chain, is one such company endearing itself to the people of the Second Congressional District of South Carolina.

Based in Mauldin, South Carolina, Bi-Lo has more than 280 stores in five States. In the second district alone there are 23 Bi-Lo stores employing 1,825 hard-working and dedicated South Carolinians. For these people, Bi-Lo has provided meaningful employment that gives each person a chance to excel. I should know because my two

oldest sons have worked at the local Bi-Lo where they have learned the self-satisfaction that comes from hard work.

Yet beyond offering quality groceries and providing meaningful employment, Bi-Lo has made charitable efforts a priority. Their programs donate money and food to Meals on Wheels, food banks, local schools, churches, and other groups. Also their Golden Apple Awards recognize the vital work of professional educators. All companies should take note of Bi-Lo's example that a strong business can best survive when they help to build a strong community.

SIMPLIFY OUR TAX CODE

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

Mr. GIBBONS. Once again, Mr. Speaker, April 15, tax day, is just a weekend away; and too many Americans spend too much time and too much money preparing and paying their taxes. The estimated preparation time for an IRS 1040 form now is right at 13 hours and 27 minutes, and those unfortunate taxpayers who need to itemize their deductions will be devoting an additional 5½ hours in preparing their tax forms.

It is obvious, Mr. Speaker, that our Tax Code is too complex and places too great a burden on our hard-working families. Too many Americans, over 67 million filers, spend millions of dollars employing professional tax preparers just to wade through the Tax Code; and it is pretty tough to wade through 2.8 million words of our Tax Code. Even the book "War and Peace" is a quicker read at 660,000 words.

Mr. Speaker, it is time to simplify our Tax Code. It is the fair solution to such a taxing problem for every American.

□ 1015

WHERE IS THE DEMOCRATS' BUDGET?

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

Mr. KINGSTON. Mr. Speaker, terrorism insurance, so that small businesses can expand and create jobs. Trade promotion authority, so that we can get American industry moving again and sell our goods overseas. Faith-based institutions, allowing them to participate in the delivery of welfare job training and other social-type services. Energy legislation, so that we will have lower gas prices, both home heating oil and at the gas pump for our cars. All of these held up by the Democrats. All of these pieces of legislation, and, in total, 51 have been passed by this House, all held up by the Democrats in the other body.

This is the party whose hallmark this year has been Enron and no budget. What are the Democrats thinking? Throw the Democratic budget on the table. We may vote for it, we may vote against it. We may combine their ideas with our ideas, but come to Washington with a budget. Come to Washington with a plan. Come to Washington ready to pass legislation. Come to Washington ready to debate.

If my colleagues do not want to take the responsibility of their office, this is an election year, it is also a good time for voluntary retirement. Consider it, because the House is going to keep working.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD). Members are reminded not to make improper references to the other body.

PROVIDING FOR CONSIDERATION OF H.R. 3762, PENSION SECURITY ACT OF 2002

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 386 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 386

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 3762) to amend title I of the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to provide additional protections to participants and beneficiaries in individual account plans from excessive investment in employer securities and to promote the provision of retirement investment advice to workers managing their retirement income assets, and to amend the Securities Exchange Act of 1934 to prohibit insider trades during any suspension of the ability of plan participants or beneficiaries to direct investment away from equity securities of the plan sponsor. The bill shall be considered as read for amendment. In lieu of the amendment recommended by the Committee on Education and the Workforce now printed in the bill, the amendment in the nature of a substitute printed in part A of the report of the Committee on Rules accompanying this resolution shall be considered as adopted. All points of order against the bill, as amended, are waived. The previous question shall be considered as ordered on the bill, as amended, and on any further amendment thereto to final passage without intervening motion except: (1) two hours of debate on the bill, as amended, equally divided among and controlled by the chairmen and ranking minority members of the Committees on Education and the Workforce and Ways and Means; (2) the further amendment printed in part B of the report of the Committee on Rules, if offered by Representative George Miller of California or Representative Rangel of New York or a designee, which shall be in order without intervention of any point of order, shall be considered as read, and shall be separately debatable for one hour equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Georgia (Mr. LINDER) is recognized for 1 hour.

Mr. LINDER. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Texas (Mr. FROST), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, the resolution before us is a fair, structured rule providing for the consideration of H.R. 3762, the Pension Security Act. H. Res. 386 provides 2 hours of debate in the House equally divided among and controlled by the chairmen and ranking minority members of the Committee on Education and the Workforce and the Committee on Ways and Means. All points of order are waived against consideration of the bill.

It also provides that in lieu of the amendment recommended by the Committee on Education and the Workforce now printed in the bill, the amendment in the nature of a substitute printed in part A of the Committee on Rules report accompanying this resolution shall be considered as adopted. All points of order against the bill, as amended, are also waived.

The amendment printed in part B of the report, if offered by the gentleman from California (Mr. GEORGE MILLER) or the gentleman from New York (Mr. RANGEL) or a designee is also made in order. It shall be considered as read and shall be separately debatable for 1 hour equally divided and controlled by the proponent and an opponent. The rule waives all points of order against the amendment printed in part B of the report. Finally, the rule provides one motion to recommit with or without instructions.

Mr. Speaker, the issue before the House today is one of utmost importance to American families across the Nation: securing the economic security of their retirement years. H.R. 3762 represents the good work of my friends and colleagues, the gentleman from Ohio (Mr. BOEHNER) and the gentleman from California (Mr. THOMAS), who have spent countless hours carefully crafting a bill that includes safeguards and options to help workers preserve and enhance their pension plans in order to help provide for themselves and their families in their retirement years.

We all witnessed the tragic unraveling of Enron Corporation and have witnessed the disbelief and anger of the thousands of employees who lost their jobs and most, if not all, of their retirement savings. While those workers were quite possibly victims of criminal wrongdoing, there is no question they were most definitely the victims of an outdated Federal pension law.

I am a firm believer in encouraging Americans to help secure their own futures through savings. While savings must begin with the individual, there are ways that government can help and

encourage people to save. The average 50-year-old in America currently has less than \$40,000 in personal financial wealth. Statistics also show that the average American retires with savings totaling only about 60 percent of their former annual income. Quite simply, Americans are saving too little.

The tragedy of Enron went further than just diminishing the savings of some employees. Sadly, Enron has undermined the confidence of American workers in this country's pension system. The collapse of Enron highlights the need for protections and safeguards to help workers preserve and enhance their retirement savings.

The Pension Security Act includes new options and resources for workers, as well as greater accountability from companies and senior-level executives. I would like to highlight some of the key elements of this bill.

First, the bill gives employees new freedoms to sell company stock and diversify into other investments. Current law allows employers to restrict a worker's ability to sell their company stock in certain situations until they are age 55 years old and/or have 10 years of service with the company.

This bill gives employers the option of allowing workers to sell their company stock 3 years after receiving it in their 401(k) plans, presumably at the beginning of their service. This 3-year "rolling diversification option" provides employers with the ability to promote employee ownership while giving employees the flexibility to make choices according to their own interests.

This legislation also creates parity between senior corporate executives and the rank-and-file workers. During blackout periods, routine times when a plan must undergo administrative or technical changes, employees are unable to change or access their retirement accounts. What we saw from Enron was an example of disparity, where the executives were able to sell off their investments and preserve their savings, while rank-and-file workers were barred from making changes.

Under this bill, workers would be given a 30-day notice before a blackout period begins. Furthermore, during a blackout period, neither an executive nor a rank-and-file employee would be permitted to make any changes to their plan.

The Pension Security Act also requires workers to give annual statements regarding their accounts and their rights in their investments. Currently the law only requires that workers receive annual notices, with no guarantee of what information must be provided. This would ensure that employees receive accurate and timely information.

Finally, this bill incorporates the key principles from H.R. 2269, the Retirement Security Advice Act. Under the leadership of the gentleman from Ohio (Mr. BOEHNER), the House passed

this bill with a bipartisan vote last autumn. While employees must be encouraged to save, they must be provided with sound advice and resources in order to make sound decisions. The bill would allow qualified financial advisors to offer investment advice if they agree to act solely in the fiduciary interest of the workers they advise.

Mr. Speaker, passage of this bill would send a strong signal to both employers and employees of this country. Employers should be commended for continuing to offer workers investment options, but they must exercise corporate responsibility as they do so. Workers should be encouraged to save, with the safety of knowing that their investments are secure.

It is my hope this legislation will not only provide much needed reform for our country's pension system but also help restore confidence in a system which has enabled generations of American workers to enjoy secure and independent retirement.

I would like to commend the tremendous efforts of both the gentleman from Ohio (Mr. BOEHNER) and the gentleman from California (Mr. THOMAS) in bringing this legislation to the House floor. I urge my colleagues to join me in supporting not only this fair rule, so that the House can proceed to consider the underlying legislation, but the legislation itself.

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

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

Mr. Speaker, this is a very important debate for the House. It is a debate about the Enron scandal, and it is a debate about whether this Republican House will keep its promise to the American people.

When the Enron Corporation collapsed late last year, thousands of its employees lost their life savings and an untold number of innocent investors had their pockets picked by a few greedy company insiders. It was the worst corporate scandal in U.S. history.

Virtually everyone in Washington, Republicans as well as Democrats, promised that it would never happen again. Well, today, the House will consider what the Republican leadership has chosen as its response to the scandal of Enron, and I am sure we will hear a lot of Republicans come to the floor today and claim that their bill, the so-called Pension Security Act, responds to the Enron scandal.

Mr. Speaker, we can argue over the particulars of what the Republican bill would do, but there is no doubt about what it will not do. It will not protect Americans from corporate wrongdoers like the ones at Enron. It will not stop unscrupulous executives at another corporation from defrauding their employees and investors the way Enron executives did.

I suppose we should not be too surprised. After all, just last month Re-

publicans passed their so-called class action bill, which would make it harder for Enron employees and retirees to hold accountable the corporate wrongdoers who defrauded them. So I suppose we should not be shocked that this Republican bill would do nothing to ensure that other Americans do not suffer the same fate as Enron's employees.

That does not make this empty Republican promise any less outrageous, and calling this Republican bill the Pension Security Act dangerously misleads millions of Americans about the security of their 401(k) plans, and since the Republican assault on Social Security continues, protecting Americans' 401(k) plans is even more vital to financial security for millions of retirees.

Mr. Speaker, Enron employees lost more than \$1 billion from their retirement nest eggs, while the corporate insiders who defrauded them made millions. The scandal is so bad that earlier this week, the Arthur Andersen auditor who oversaw the books at Enron pled guilty, and the New York Times reports today that Arthur Andersen is near a deal to do the same.

We should not be slamming the door on corporate fraud and abuse that company insiders used to pick the pockets of their employees and investors. So the gentleman from California (Mr. GEORGE MILLER) and the gentleman from New York (Mr. RANGEL) are offering a Democratic substitute today, one that takes real steps to protect employees and hold corporate wrongdoers accountable. It ensures a level playing field between executives and employees, and the corporate wrongdoers cannot take advantage of employees and investors.

As the President said after the Enron collapse, "If it is good enough for the captain, it is good enough for the crew." For example, the Democratic substitute requires that employees be notified when executives are dumping stock, and it prevents executives from selling their stock while employees are prohibited from selling their stock. If the Democratic bill had been law, Enron executives could not have bailed out while promising their employees that everything would be just fine.

The Democratic substitute also gives employees a seat on pension boards so they have a voice when critical decisions about their retirement security are made.

It provides employees with access to independent, unbiased financial advice, and it ensures that they get honest, accurate, and timely information about their pension plans.

Finally, the Democratic substitute increases criminal penalties against corporate wrongdoers who violate employees' pension rights.

Mr. Speaker, the Democratic substitute is the only real response to Enron on the floor today. It is our only chance today to protect Americans from another Enron scandal.

□ 1030

Mr. Speaker, I urge all Members to vote for it. It is also my intention to

vote against the previous question on this rule. If the previous question is defeated, I intend to offer an amendment by the gentleman from Michigan (Mr. CONYERS), the ranking member on the Committee on the Judiciary. His amendment, the Corporate and Criminal Fraud Accountability Act, would allow the House to vote on increasing the penalties against the corporate wrong-doers, like the Enron executives who brought their company to ruin, while walking away with their pockets stuffed with cash.

If we are really going to consider pension security, we ought to make sure that corporate wrong-doers do not think that they can get away with this kind of fraud again. Without that addition, this Republican bill would leave the pension plans of employees and investors vulnerable to another Enron.

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

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

Mr. Speaker, we will hear a lot of demagoguery about Enron today. Some may be true. But the one point made that the bill passed by the Republicans on class action suits a few weeks ago would have undercut Enron's ability and its employees' ability to sue is simply wrong. What we said was above a certain threshold, those suits may be removed to Federal court. The Enron suit is in Federal court. It would not have been hampered one wit.

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

Mr. FROST. Mr. Speaker, I yield 4 minutes to the gentleman from Florida (Mr. HASTINGS).

Mr. HASTINGS of Florida. Mr. Speaker, I rise today to indicate that this rule serves as an example for those of us who continually point out that bipartisanship is a rhetorical idea that the majority refuses to turn into a reality. Sure, the rule allows for one Democratic substitute. But yesterday evening the Committee on Rules shot down along party lines more than 12 amendments that were offered by Members on both sides of the aisle. I particularly paid attention to the one offered by the gentleman from Minnesota (Mr. GUTKNECHT), which I think should have been permitted by the Committee on Rules. Many of these amendments would have aided the leadership of both parties to move closer together on comprehensive and agreeable compromise. But as we see this morning, the majority is not in the business of compromise.

The notion of pension reform was raised from the rubble of the Enron scandal. Congressional hearings and law enforcement investigations have shown that to prevent future Enrons, Global Crossings and countless others, Congress must address the issues of diversification, auditor independence, honest and accurate information, tougher criminal enforcement, and most important, equal treatment of employer and employee retirement

plans. Let me repeat that. Equal treatment of employer and employee retirement plans.

Yet while we know what needs to be done, the majority's bill inadequately addresses these issues. The Republican bill does not require employers to notify employees when they are dumping stocks. It locks employees, but not employers, into 3- or 5-year stock holding situations, thus continuing down the dangerous road of nondiversified portfolios. It denies employees a crucial vote on pension boards. It does not hold employers liable in the case of another Enron or Global Crossing, and continues the special treatment of employers' pensions.

This bill fails to protect employees and often yields power and leverage to executives and business owners. Candidly, it is an act of irresponsibility.

The Democratic substitute addresses these issues; and it addresses them in a manner that treats the retirement packages of employees equal to those of their employers, even more, in holding employers accountable for violating workers' pension rights. The Democratic substitute fills a large hole in the majority's bill.

Mr. Speaker, I hope that my colleagues on both sides of the aisle realize that we have the chance for a bipartisan compromise on pension security. We could have reached one during the hearing process before last night's Committee on Rules meeting, and certainly today.

Instead, the majority is trying to push through its own misguided bill that fails working families at a time we need to be protecting them.

Mr. Speaker, I urge my colleagues to oppose this rule, oppose the underlying bill, and support the Democratic substitute. I know that if Enron's former employees were able to vote here today, they would do just that.

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

Mr. FROST. Mr. Speaker, I yield 7 minutes to the gentleman from California (Mr. GEORGE MILLER).

Mr. GEORGE MILLER of California. Mr. Speaker, this is really about two different approaches to the protection of American workers' retirement funds.

Earlier this year, American workers all across this country were jolted by the fact that their 401(k) plans, which they are having to increasingly rely on for their retirement nest-eggs, could be vulnerable and could be wiped out by incredible actions by corporate executives. But that is what happened to the people who worked for Enron, and that is what millions of Americans all of a sudden understood was possible with their plans.

So we learned a lot of information about the Enron case and about the vulnerability of employee retirement funds. We learned first and foremost that many employees had no control over many of the assets that were put into their funds because corporations have said that employees have to hold

on to them until you were 50 or 55, could not divest them for 5 or 10 years, and could not diversify their holdings.

We learned that employees, even though the vast majority of these funds, or in fact all of these funds, were assets that belonged to the employees, that in many instances they were not given a voice on the pension board; and clearly, they were not at Enron. What happened, the members of the Enron pension board sold their stock. They never told the employees that they were selling, or that they thought the stock should be sold. They saved themselves millions of dollars. The employees got wiped out. Why? Because they had a conflict. Nobody represented the rank-and-file employees on the pension board which was made up of executive vice presidents who were trying to get to the corner office.

They also found out that the employer's plans at Enron were ensured. They were guaranteed. So as Enron goes into bankruptcy, the executive elites, their retirement plans are guaranteed. They saved millions of dollars for their future use through insurance plans and guarantees. The employees, wiped out, and at best get to stand in line and hope to get something from the bankruptcy court where they have no real protections.

We also wanted to make sure when the employer, the executive elites, were making a decision to sell stock, that somebody would tell the employees. There is no requirement in the law today. And yet when Ken Lay was telling people he was buying stock, he was secretly selling stock to liquidate his personal debts at Enron. The employees had no way of knowing that, no timely notification. They lost their assets; the Ken Lays protected themselves.

Finally, what we see is these employees have no real right of action for the misconduct of the executives of Enron, for the executives of Enron that have wiped out their retirement plans. We think that they should be made whole, that they should have a right to go after that; but under ERISA, they have no rights.

Mr. Speaker, what is the distinction today between the Republican bill and the Democratic substitute? The Republican bill learns nothing from Enron. It lets executives continue to sell stock and not notify the employees. It continues to treat the executive retirement assets completely different than the employee retirement assets. It makes sure that the employees have no voice on the pension board, even though research shows that where employees have a voice on the pension board, they invest more money and, in fact, they do a little bit better on the rate of return on those investments.

So they have learned nothing about protecting American workers as a result of the disaster at Enron, as a result of the greed at Enron, as a result of the self-dealing at Enron, as a result of the conflicts of interest. The Republicans have learned nothing because

their bill does nothing to provide further protections.

Yes, they let them diversify; but it is a 3-year rolling diversification. Three years ago, people were in the last stages of the greatest bull market in the history of this country; and today, people have lost many of their assets. Three years in the marketplace is a long time.

How is it that we believe that we can lock up people's assets for 5 years, and then for every 3 years after that?

Finally, the final insult to the employees in this bill, and that is the investment advice provisions. For the first time under the Federal laws protecting these pension plans, conflicted advice will be allowed to be offered. That comes just 2 days after we learn of the Merrill Lynch conflicts where Merrill Lynch, as an investment banker, was making tens of millions of dollars on investment advice and arrangements for these companies and then were telling their people who were giving retail advice to investors all across the country that these were good stocks and good for retirement plans, when we find out that they did not believe that at all.

Investment advice can be very important to Americans trying to secure their retirement; but it must be advice without hidden commissions, without hidden fees, and without hidden conflicts of interest. America got a rude awakening with Enron, but we have also learned that Enron is not unique. I appreciate that Members want to treat it as a one-time effort. We have seen other corporations that have locked up the pension assets of employees for their own convenience, for the good of the corporation, as opposed to the good of the workers.

We have also seen other corporations where huge loans were secretly taken out, where stock was secretly sold, and the employees had no way of knowing it until after it was too late. After the famous ship that the President keeps talking about, where what is good for the captain is good for the crew, the crew was already underwater. The captain did not even have the courtesy for the workers of many, many years, did not even have the courtesy to bang on the abandon-ship horn as he went to the lifeboat. We owe America's workers more.

Mr. Speaker, this is the one vote we are going to get about millions of workers, about almost all of our constituents in the workplace, about the security and protection and the advice and the control that they have over their retirement nest-egg.

Mr. Speaker, our committee was sadly treated to the testimony, as many other committees were, of workers at Enron and many other corporations who are in their 50s and 60s who thought that they had a great retirement ahead of them; and it has vanished. It was wiped out by incredible corporate greed, by a lack of total ethics by corporate executives, by the dou-

ble-dealing of corporate executives, by the conflicts of interest in the financial institutions and the accounting institutions. We cannot let that happen again. We must pass the Democratic substitute.

Mr. LINDER. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. BOEHNER), the chairman of the Committee on Education and the Workforce.

Mr. BOEHNER. Mr. Speaker, before us today is a bipartisan bill that will help promote security, education, and freedom for employees who have worked and saved all of their lives for a safe and secure retirement. Those of us on the Committee on Education and the Workforce have been engaged in pension reform issues for several years now, looking at ways to expand worker access to high-quality investment advice and encourage employers to sponsor retirement plans for their workers.

□ 1045

As our committee began hearings to address the Enron collapse, we did so with a firm commitment to identify further reforms that will strengthen the retirement security of American workers.

The Pension Security Act, based on President Bush's reform plan, sends a clear message that Congress is committed to addressing the Enron collapse by enacting new safeguards to restore worker confidence in the Nation's pension system. It accomplishes this goal in a number of ways: First of all, the Pension Security Act includes new flexibility for workers to diversify their portfolios and better information about their pensions. In addition, it requires companies to give workers quarterly benefit statements that include information about their accounts, including the value of their assets, their right to diversify, and the importance of maintaining diversity in their portfolios.

President Bush has also called upon the Senate to pass the Retirement Security Advice Act which passed this House last November with a large bipartisan vote. The bill encourages employers to make quality investment advice available to their employees. Some of Enron's employees could have preserved their retirement savings if they had access to a qualified adviser who would have warned them in advance that they needed to diversify their investment portfolio.

The Pension Security Act also ensures parity between senior corporate executives and rank-and-file workers by prohibiting company insiders from selling stock during blackout periods when workers are unable to change their investment mix. The bill also strengthens the blackout disclosure requirements and specifically requires 30 days' notice before a blackout period could begin. Lastly, the bill clarifies that companies in fact have a fiduciary responsibility for workers' investments during a blackout period.

The Nation's private pension system is essential to the security of American workers, retirees and their families. Congress should move decisively to restore worker confidence in the Nation's retirement security and pension system, and President Bush's reform proposal will do just that. This is a bipartisan bill. I look forward to working with my colleagues on both sides of the aisle as we move forward on this important issue.

The rule today before us, I believe, is a fair rule. I urge my colleagues to support it.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. RANGEL), the ranking member on the Committee on Ways and Means.

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

Mr. RANGEL. Mr. Speaker, when the Enron scandal started, so many reporters were trying to associate this with the administration and they did all they could to distance themselves from this conduct that was just repugnant to everything that fairness and equity would want us to do. So one would think that the Republican leadership in the House would want to do the same thing, especially as related to protecting the 401(k) employee contributions to their pension plans. This being a tax issue, one would logically believe that it would be the leadership of the Committee on Ways and Means that would be showing our concern about protecting these pension plans. But the silence has been deafening from my committee, and the leadership, what little there was, actually came from the gentleman from Ohio (Mr. BOEHNER) who heads the Committee on Education and the Workforce, and I thank him at least for raising the subject. But the President still was not convinced that we had fully appreciated that captains were getting a better shake than employees; that is, the executives in these firms. And so he continues to say that that there should be more equity.

The bill that comes to the floor really puts the employees going upstream in a canoe without a paddle, because it actually gives protection, even after bankruptcy, to the executives while the employees continue to suffer. One might ask a question, well, why would the Republicans do this to themselves in an election year? The answer is, "It's campaign contributions, stupid." They tried yesterday to really disrupt campaign finance reform by putting a little thing in there to disrupt it. But the Republicans are no longer walking lockstep. They have to decide whether they are going to follow the corporations or follow their constituents back home.

So for those who really want to see what is going on in this House, do not listen to the debate but watch the votes today, because while you do not find too much bipartisanship on the

floor, you are going to find Republicans and Democrats trying to protect their employees by voting against the Republican bill that is on the floor today, and voting for the Democratic substitute that is going to allow us to go home feeling that we have protected the employee and we are not going to allow the executives just to get away with whatever they want to do just because they are the captains of the ship.

If this ship is going down, the integrity of America goes down with it. Equity and fair play should be a part of every pension bill. What happened to Enron, this is the last chance we will get to tell the American people how much we believe in protecting their pension funds.

Mr. LINDER. Mr. Speaker, I am pleased to yield such time as he may consume to the gentleman from Ohio (Mr. PORTMAN).

Mr. PORTMAN. I thank my colleague from Georgia for yielding me this time.

Mr. Speaker, I thought what I might do is respond to some of the comments that have been made on the other side of the aisle, first to my friend from New York, the ranking Democrat on the Committee on Ways and Means. I was there with him in the Committee on Ways and Means when we had a good hearing, a good markup on these issues, and I appreciate his support of the Portman-Cardin provisions which are really the base of this legislation. There has been something added since that time, which is that those "captains" are prohibited from trading their stock at all during a blackout period so long as 50 percent of the participants in the plan are affected by the blackout.

So you supported us in committee, we had a good bipartisan product, we had a good debate on it, we made some changes to accommodate some of the gentleman from Maryland's and your concerns and others, and then we added to it by actually putting in place what you indicated a moment ago is your biggest concern: that there is nothing in here to keep the captains from trading stock when the sailors cannot.

I know there are some other issues. There is investment advice in here that was not in our bill, although we did have the pretax investment advice proposal. I would just hope that those listening to the debate today who are still trying to decide whether this is the right legislation to support or not, particularly on the other side of the aisle, would take a look at the bill.

The gentleman from California (Mr. GEORGE MILLER) earlier who spoke in opposition to the bill because he said it did not do anything, I hope he would look at what came out of the Committee on Ways and Means and the gentleman from Ohio's committee more carefully because it does do a lot. Right now if you are in a 401(k), your employer can say, "You're tied in till you retire." If it is an ESOP, they can only tie you until you are age 55. Plus you have to have 10 years of participa-

tion. So if you arrive at age 46, you have to wait until you are age 56. But with 401(k)s, they can go even further than that.

The legislation before us today makes a substantial change and directly affects what happened at Enron. The employees at Enron had to wait till age 50. They could not unload the stock if they wanted to. What we are saying is, once you are there 3 years, you are vested, you can unload the stock. Three years, instead of waiting until you are age 50 or 55 or 65 or whatever the employer wanted to do under current law. Or the employer can instead choose a 3-year "rolling," which means that when you get stock, you can only be required to hold it for 3 years. That is a big difference.

For those on that side of the aisle who say there is no change here, that this is somehow worse, how can that be worse? Think about the employees who are in 401(k)s around this country who are taking advantage of that employer match but who want to have a little more choice. Do we not want to give that to them? Why would you vote "no" on this? This is going to help millions of people be able to have more choice.

It also has a very important component, which is more information and education. On the information side, it says you now have to be told about a blackout. Right now there is no notice requirement for blackouts. A blackout is when a company stops all the trading in their stock, in their 401(k) plan or other pension plan during a period of time, for example, when they are changing plan administrators or managers. Right now there is no requirement for a notice.

Some say Enron provided notice, some say they did not. That is really beside the point, because this is not just about Enron. The point is that right now there is no ability for employees to know when they are going into a blackout period where they cannot trade. We say it has to be given 30 days before the blackout. That is new. There is no requirement now.

Again, for my colleagues on that side of the aisle to stand up and say this does not change things at all, I hope they are looking out for the interests of the employees, but I have got to wonder. Is this all about politics or is it about making real change that is going to make a real difference? We had a 36-2 vote out of the Committee on Ways and Means on this issue because the gentleman from New York (Mr. RANGEL) and other Democrats looked at the bill, read the bill, understood its impact on workers and supported it.

Finally, in order to be able to make informed choices, because we are giving people more choices, we are giving people more information, you want to give people more education. I thought there was a bipartisan consensus about that. I thought we wanted people to be better informed so they could make

better decisions on their own. 401(k) participants have gone in the last 22 years from a few thousand employees to millions of Americans. With over 235,000 plans, 42 million Americans now enjoy the benefits of this. Do you not want to let them have a little more education so they can make these decisions?

This bill says on a pretax basis, you can deduct out of your paycheck money to go out and get advice, wherever you want. You can get it from whoever you want. You can get 300 bucks or 400 bucks or 500 bucks to go out and seek advice. Pretax. That is a pretty good deal. Again, that came out of the Committee on Ways and Means. I appreciate the gentleman from New York supporting that. It is a good provision. It is going to help people to get the information they need to be able to make these decisions we are now empowering them with. Rather than saying you have got to hold onto that stock until you retire, we are saying, you should diversify. We want to give you the information to do so.

And then in Chairman BOEHNER's committee, the provision was added to say the company ought to be able to go out and get advisers to come in who are certified advisers, who disclose any conflict of interest they might have or potential conflict of interest, and they ought to be able to offer advice. That passed this House with over 60 Democrats supporting it last year, in November. That is not a controversial provision.

The final thing is that we require not just more diversification options, more choice, more information, more education, but we actually force the employer now to tell employees they ought to diversify. When an employee now enters into a plan, we are going to require for the first time that they be given a notice which says, "Guess what, it's not a good idea to put all your eggs in one basket. You ought to diversify." That is in this bill. It is not in current law. Then every quarter, they are now required to provide a benefit statement telling the employee what is going on with their plan and another notice saying, you ought to diversify. Because for retirement savings, it is not a good idea to have all your eggs in one basket. Information, education, choice, equals security.

This is a pretty straightforward, commonsense piece of legislation. I have enjoyed working with the gentleman from Maryland (Mr. CARDIN) on it for the past 3 or 4 months, enjoyed working with the administration, with the gentleman from Ohio (Mr. BOEHNER), with the gentleman from New York (Mr. RANGEL), with other Democrats on the Committee on Ways and Means. I would just hope that today in a political year, where there is a lot of partisanship, that we can set some of that aside for the good of the workers, not the people at Enron solely, the people all around this country who are in 401(k) plans that have the

huge advantage of getting an employer match. For those people, we ought to offer them better information, better education opportunities, and more choice. That is what this is about.

This legislation, Mr. Speaker, has been bipartisan from the start. I am disappointed from what I have heard this morning from the other side. I would hope that at a minimum we can stick to the facts today, and if at the end of the day some of my colleagues on that side think this is such a great political issue that they just have to vote "no," so be it. But let us not as we go through this debate mislead the American people and mislead our colleagues as to what is in this legislation. It is good, solid legislation that does address what happened at Enron. It is not the silver bullet that is going to solve every problem in our pension area, but it makes substantial progress. It does not turn the clock back. It moves the clock forward. It gives people information, education, security, that they need.

I would strongly urge my colleagues on both sides of the aisle to look at the bill and if they do so, I believe they will support it.

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

We have had a very nice kind of technical discussion by the gentleman on the other side, but this is a very simple issue. The question is, which side are you on? Which side are they on? Which side are we on? They are with the top executives. We are with the employees.

I would like to quote from an article in today's New York Times on the front page. It says: In Enron's Wake, Pension Measure Offers Loopholes. Experts Say House Bill Could Allow Companies to Favor Highly Paid Employees.

It goes on:

"Some legal experts and pension rights advocates say the first of the post-Enron pension measures to reach the House floor actually opens up fresh loopholes. Some of the bill's provisions would lead companies to seek to reduce the number of employees covered by pensions and give proportionally larger pension benefits to the most highly paid executives."

□ 1100

Which side are we on? We are with the employees. Which side are they on? They are with the highly paid executives.

Mr. Speaker, I yield 2½ minutes to the gentleman from Massachusetts (Mr. TIERNEY).

(Mr. TIERNEY asked and was given permission to revise and extend his remarks, and include extraneous material.)

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

The gentleman spoke on the other side for a minute and wanted to talk about politics and education. Well, the politics of this rule are very simple.

They did not want to have a straight matchup of each part of this bill. We are not allowed to bring forward amendments and talk about the several aspects that you heard the gentleman from California (Mr. GEORGE MILLER) talk about earlier, because when you stack them up one against the other, this side that is with the employees, with working people, would win hands down. It is only by putting them all together in the aggregate and then trying to put it through on a party-line vote that they stand to have any prospect of having a bill that favors employers and the well-to-do against people that work every day and need protection.

I will associate myself with the remarks of the gentleman from California (Mr. GEORGE MILLER) on the general aspects of the substitute, and that should pass. Thank God the rule at least allows that.

But I had tried, Mr. Speaker, to get in an individual amendment speaking just to the issue of advice and was not allowed the opportunity to do that. That is why this rule is in essence an abomination. That issue and others are being excluded from a direct debate in a direct contradiction to what is in that major bill that the majority is putting forward.

They claim this is a compromise between the two committees, the Committee on Ways and Means and the Committee on Education. The only thing being compromised here is the retirement security of our working men and women.

This bill hurts employees with respect to the advice situation. A year ago, my amendment was the only amendment on this floor that talked about having no conflicted advice. The majority would not let it on the floor, would not let it come to a vote, and they passed a bill that went through and allowed for conflicted advice.

Again we see a bill here saying, gee, as long as we tell you we are conflicted, as long as we tell you we might hurt you, we can have that kind of advice. Well, the fact of the matter is, Enron is coming between that; Ken Lay and his chat room advice to employees to hang on to the stock while he was dumping it off at a profit has come in between that. We have had investigations in the industry which every day reveal new conflicts, new scandals, more losses for working people.

Mr. Speaker, I will include my remarks from the CONGRESSIONAL RECORD from last year for the record, because they are still pertinent.

We only have to look at a recent newspaper headline from the Washington Post, April 9: "Merrill Lynch e-mail shows firm pushed bad investments on client, chief New York prosecutor says."

The fact of the matter is, Mr. Speaker, the industry is admitting they are totally conflicted. The U.S. Attorney's Office and the New York State Attor-

ney's Office in New York have shown that that happens day in and day out.

The American public and the working people need to know they have advice that is not conflicted. Employers can be protected on the advice that they give, but there is no excuse to not protect the employees and to make sure advice they get is absolutely not conflicted. It is just one more way in which this bill does not favor employees and does more for the executives than it does for the working people.

Mr. TIERNEY. Mr. Speaker, I thank the gentleman from New Jersey for yielding me this time.

Like many Members, I represent people who have worked hard and whose entire hope for a secure retirement may well rest on the success of their 401(k): leather workers, jet engine assemblers, teachers, nurses, and other hard-working, intelligent folks who are bright and able, but many of whom have little experience in understanding investment fundamentals. They may lack the time or even the knowledge to work through a mountain of financial information. They need advice that is given by a provider that meets at least minimum standards, one who is qualified and one who is subject to the laws of ERISA's fiduciary standards, standards of trust, and one who is free from financial conflict, free from divided loyalties; and they need an advisor who will put the worker's or investor's interests first, above profit.

Consider this following example: two mutual funds, each posting annual gains of 12 percent consistently for 30 years. One fund has an expense fee of 1 percent, the other an expense fee of 2 percent. If you invested \$10,000 in each fund, the fund with the lower expense fee at the end of 30 years would earn \$229,000, but the one with the higher expense fee of 2 percent would have only \$174,000. The mutual fund would pocket the difference of \$55,000.

Obviously, there may be little incentive for the advisor connected to the mutual fund to highlight the significance of this conflict, of his or her potential gain in steering someone to the higher fee investment. Why should we allow such a conflict of interest to exist when it is not necessary?

Perhaps that is why the fund industry is lobbying so hard for this bill, but workers and retirees are not asking for its passage. These hard-working people, like other investors, need and want good, sound advice; but allowing money managers to make recommendations that will generate more income for themselves hardly falls into the realm of independent advice.

In 1974, Congress chose to ban transactions between pension plans and parties with a conflict of interest, except under very narrow circumstances; and they did that for a simple reason. There is too great a danger that a party with a conflict of interest will act in its own best interests rather than exclusively for the benefit of the workers. That concern is not less valid today.

Studies by the financial industry itself have found broker conflicts have harmed advice received by individuals, audit conflicts have undercut the value of audits on financial firms, analyst reports have shown significant evidence of bias in comparing ratings. The law, ERISA, was designed to protect against just these types of issues.

Our shared goal should be to increase access to investment advice for individual account plan participants. We need not obliterate long-standing protections for plan participants in order to do that. Surveys show that the most important reason advice may not now be offered is that employers have

fears that they may be held liable for advice gone bad. The remedy for that, and it is in the bill, is that Congress should encourage more employers to provide independent advice by addressing employer liability. It should clarify that an employer would not be liable for specific advice if it undertook due diligence selecting and monitoring the advice provided. It is as simple as that. There is no need for conflicted advice.

Many plans already provide for investment education. Many plans now provide independent investment advice through financial institutions and other firms without conflict. Clarifying that employers would not be liable if they undertake due diligence with respect to advice providers would further increase advice as necessary.

Disclosure alone will not mitigate potential problems. The alternative bill in adding some protections and mandating a choice of alternative advice that is not conflicted is a better idea, but the best idea remains a prohibiting against conflicted advice. Congress, by clearing up the liability issue, can encourage independent, unbiased investment advice that will better enable employers to improve their long-term retirement security, while minimizing the potential for employee dissatisfaction and possible litigation. This is what is in the best interests of the plan participants and, in fact, the best interests of the plan; and certainly is in the best interests of the hard-working people in my district who need to know that their retirement is secure.

Mr. LINDER. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. BOEHNER).

Mr. BOEHNER. Mr. Speaker, I thank my colleague for yielding me time.

Mr. Speaker, I appreciate my good friend from Massachusetts' concern about his amendment that would seek to eliminate the ability of, frankly, some of the best advisers, some of the most successful companies in America, from offering investment advice to their employees.

The fact is today we have some 50 million Americans who have self-directed investment accounts as part of their pension and retirement package from their employer. Only about 16 percent of these people have any access to professional investment advice.

One of the things we have all seen with the collapse of the high-tech sector, with the Enron collapse, and about the dramatic fall in the value of a number of stocks that we have seen over the last several years, those employees today need more investment advice to help them make better decisions for their own retirement security.

The two provisions in the underlying bill today, the Investment Advice Act that this House passed with all the Republicans and 64 Democrats last November is one of those provisions, and the provision from the gentleman from Ohio (Mr. PORTMAN) in the Committee on Ways and Means' section of the bill that would provide a tax credit, the ability to use pre-tax dollars to have their own investment, I think complement each other to the point where we will have much more investment advice out in the marketplace.

But to say that people who sell products cannot offer investment advice I think is wrong-headed. Why? Because

we are trying to encourage more investment advice in the marketplace, not less, and the fact is that if you do not allow those who sell products from offering advice, with protections for the employee as we have in the underlying bill, we will get very little new advice into the marketplace.

That is not what employees want. In a recent poll, some 75 percent of employees said they need more investment advice. Well, why should we not get this information out in the marketplace for them?

We will have much more debate on this when we get into the bill itself. But the gentleman from Massachusetts is a good friend, I know he means well, but in the end I think the provisions we have in the underlying bill meet the test of fairness and safety for all of Americans and America's employees.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. HOLT).

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

Mr. Speaker, the bill before us today might be called the "We Have Learned Nothing From Enron Yet Act." The first lesson of Enron is Enron is not alone. The problem is endemic in corporate America.

The retirement security of millions of Americans is at risk. For years, corporations have moved more and more toward defined contribution plans. In other words, the corporations took less and less responsibility for their employees' retirement and no one was looking after the employees' interests. Employees in many cases were denied the opportunity to look after their own interests. They were denied information about their company and the actions of their executives.

Now, the bill before us today fails to give employees notice when executives are dumping company stock. It denies employees a crucial voice on pension boards. It limits the ability of employees to collect damages resulting from misconduct of corporate officials. It allows executives to continue to have their savings set aside and protected if a company fails, while rank-and-file employees are left to fend for themselves in line in bankruptcy proceedings.

Perhaps most important, the bill leaves employees' money locked into company stock. Think Enron here. Locked into company stock for long periods against their will. The bill ties employees' hands from diversifying, even if they want to, for a 5-year period or a 3-year rolling period after that, and corporate executives will be allowed to unload their stock options.

I asked the Committee on Rules to allow a vote on my amendment that would allow employees to be vested in their 401(k) plans after 1 year. I thought that was a fairly generous period, instead of 5 years. The Committee on Rules would not even allow a vote on that.

Now, I have sided with the Republican majority on provisions with re-

gard to pension whenever I can, but now they put together this bill that falls woefully short.

All I can ask of my colleagues is take the side of employees. Pass the Democratic alternative.

Mr. LINDER. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Ohio (Mr. PORTMAN).

Mr. PORTMAN. Mr. Speaker, I thank my friend from Georgia for yielding me time.

Mr. Speaker, again I would make the point what we are proposing here today, what is before us, is a substantial change from current law, and it does address the Enron issue.

My friend across the aisle just said that he believed that no one was looking after the employees' interests over the last 20-some years as we put together defined contribution plans. I would respectfully disagree.

I would ask him to ask the thousands of constituents in his district how they feel about it, maybe ask the 55 million Americans who currently have the benefits of defined contribution plans. I would ask him to go to some of the smaller businesses in his community that would never have offered a defined benefit plan, never had one, who now offer a SEP or a simple plan or a 401(k) or a safe harbor 401(k) and are giving people the ability to save for their own retirement.

There are people who will retire today in my hometown of Cincinnati with hundreds of thousands of dollars in their account, even with what the market has done in the last year, who turned a wrench their entire lives. They were technicians or mechanics and never had access to any kind of retirement savings. These are some of the 55 million people who now have a defined contribution plan.

We do not want, in response to the Enron situation, to have those plans and those people lose their promise, lose their dreams, lose their ability to do that. I think we have achieved the right balance here.

Frankly, the business community is not wild about this bill. Why? Because it does not let the employer tie people to the company stock the way they currently can.

Now, my friend said he wanted to go to 1 year instead of 3 years. Well, it is unlimited years now. So we could debate whether it is 1 year or 2 years or 3 years or 4 years or 5 years. That is as compared to saying to one your constituents, you have to keep in this stock until you retire, which could be 40 years, or 45 years, or even 50 years.

So, I think we are talking about some relatively small differences between where you would like to end up and what you proposed to the Committee on Rules last night and where we are today.

I would again just urge those who are listening to this debate, let us be very clear: There are substantial differences between current practice and what we are proposing, and these do not just relate to the Enron situation. It relates

to millions of Americans who have the benefit of getting a match from their employer in employer stock. We want to continue that.

What the employer community tells us is they are not wild about our bill, but they certainly do not want it to go down to 1 year because they like the idea of giving corporate stock, in part because they want the employee to feel some stake in the company. They like the idea of employee ownership and employee empowerment through the company.

We are, frankly, not going to permit them to have the kind of ownership that many of them would like to have over a longer period of time. We are doing it for a simple reason, because we believe employees ought to have more choice. Again, we combined that with information, including notice periods that are not there now, and better education.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey, Mr. ANDREWS.

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

Mr. ANDREWS. Mr. Speaker, the tragedy that affected the Enron pensioners is a story about power and conflict of interest. People with a lot of power and influence and a conflict of interest took advantage of people with very little power and influence, and those people lost just about everything they had.

I wish that the legislation that my friend from Cincinnati described was on the floor today, but it is not. The legislation the majority is addressing on the floor today I think fails to solve the problems that exist in American pensions plans in three very important ways.

First of all, our substitute would give employees real power to have a say in how pension plans, filled with their money, are managed. Our bill would call for these employees to have a seat, to have a say in how the plans are managed. The majority plan does not.

Our bill would say that once money is in your account, it is your money. If the employer can put stock into your 401(k) plan and receive a deduction because it is treated as compensation paid to you, then it should be compensation. It should be yours to do with, whatever you please.

The gentleman says that there is very little difference between the Democratic and Republican plans. I would respectfully disagree. Under the majority's plan it could be 3, 4, 5, 6, 7 years that an employee would have to sit there and watch the value of their stock plummet and not be able to sell the stock or do anything about it, while their bosses and superiors could drop their stock in a minute. That is wrong.

Finally, there is the issue of conflict of interest. We are legalizing in this bill today, we are legitimizing in the majority's bill today, the practice of

benefiting from giving people advice that benefits you more than it does them.

Mr. Speaker, I would urge support of the substitute.

Mr. LINDER. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. PORTMAN).

Mr. PORTMAN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, just to respond briefly, if the gentleman would like to take the mike, that is fine, but he said somehow I was not describing the bill that is before us. I would like him to tell me one thing that I said about the bill that is not in the legislation.

Mr. ANDREWS. Mr. Speaker, will the gentleman yield?

Mr. PORTMAN. I yield to the gentleman from New Jersey.

Mr. ANDREWS. Mr. Speaker, I would ask the gentleman to tell me, if your bill became law tomorrow, if an employee had stock in a 401(k) plan that was employer-matched, how many years would the employee have to wait before they could sell the stock?

Mr. PORTMAN. Mr. Speaker, reclaiming my time, my colleague just stood before the well of the House and told our colleagues and the American people, to the extent they are listening, that an employee would have to wait 5, 6 or 7 years holding on to its stock, while other people could dump the stock.

□ 1115

I do not know what he is talking about. In this legislation, it says that you have to hold the stock, if the employer requires it, for a period of 3 years as compared to an unlimited time now. That is the difference. Let me finish and tell the gentleman what is in the bill, because this legislation came out of the gentleman's committee and my committee. I assume the gentleman has read it, but the gentleman from Maryland (Mr. CARDIN) and I put together this part of the bill, and I will just tell the gentleman what is in the legislation.

When the legislation goes into effect, we were very careful not to have a dumping of stock on to the market, which is going to hurt not just the American consumer and our economy, but those very employees who care about having the corporate stock continue to have the value that it deserves. If we allowed immediately for everyone who has corporate stock in America in their 401(k) plan to unload that stock, it would be detrimental. So we say it should be done over a 5-year period initially, with 20 percent per year, doing the math. That is, after 5 years one could, if one chose, have all of the stock out of their account. Then once that is completed, that is just the first 5 years after the legislation, then the 3-year period begins.

So that is how the legislation was drafted. I see the gentleman from Maryland (Mr. CARDIN) has now come into the Chamber. That is how we drafted it.

Mr. LINDER. Mr. Speaker, I am happy to yield 1 minute to the gentleman from Ohio (Mr. PORTMAN).

Mr. PORTMAN. Mr. Speaker, I know at the end of the day, some of my colleagues have some substantive differences with the legislation and they also have some politics that they would like to talk about; and I would love to address the gentleman from Texas's quote from the New York Times, because there are some other quotes from that story that are more accurate. This is not about us versus them; this is not about the big guy versus the little guy. This is about something that will help the workers in this country. But I do believe that it would be in the interests of this House to stick to the facts, and that is what I have tried to do.

Mr. ANDREWS. Mr. Speaker, will the gentleman yield for a question about the facts?

Mr. PORTMAN. I would be pleased to yield to the gentleman from New Jersey.

Mr. ANDREWS. Mr. Speaker, I think I just heard the gentleman say that if the majority's bill became law tomorrow, an employee would have to wait for 5 years before he or she could divest themselves of all of the stock; is that correct?

Mr. PORTMAN. Mr. Speaker, 20 percent the first year, 20 percent the second year, 20 percent the third year, 20 percent the fourth year, 20 percent the fifth year.

Mr. ANDREWS. Mr. Speaker, if the gentleman would yield, so before they could divest themselves of all the stock, they would have to wait for 5 years; is that correct?

Mr. PORTMAN. That is correct. Reclaiming my time, does the gentleman disagree with that provision?

Mr. ANDREWS. I do indeed.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. OWENS).

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

Mr. OWENS. Mr. Speaker, the high school sophomores of America are disgusted with this conversation, I am certain. I am sure they are asking themselves why the Members of the House of Representatives and the other people who are elected to protect their rights allow this situation to exist for so long; but they are certainly not happy with the majority party standing up to applaud themselves for taking a few significant steps toward greater financial security with respect to the pension funds of the employees.

We have taken a few steps. Why not maximum reasonable security for all of the people who have their money in these pension plans? Why not go further than the plan that the majority has? Does it cost the taxpayer any money to do a little more as reflected by the Miller substitute?

Mr. Speaker, I rise in support of the Miller substitute. What would it cost

to have immediate disclosure whenever a top executive sells a large amount of stock? Would that cost the taxpayer any money? Would it really cost us any money to have greater checks and balances? Would it cost us any money to have more democracy where the employees have a representative actually watching their funds sitting in a high place where the decisions are being made? The people in Europe and the other industrialized democracies do not think it is such a great problem to have an employee representative sitting on the board. Why not maximum reasonable security? Why not go one step further?

Everybody knows from past scandals, savings and loans swindles, the bigger the party is, the more corruption there is going to be. We have enough history as a human race to know that whenever we have large amounts of money or large amounts of power, corruption is inevitable. Human beings are going to behave that way. That is why the system of checks and balances exists. Let us go all the way with maximum reasonable security.

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

Mr. FROST. Mr. Speaker, I yield 30 seconds to the gentlewoman from Texas (Ms. JACKSON-LEE).

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, in my district in Houston, the ex-Enron employees' lives are in shambles; and every time I go home, they ask, what? why? What is the Congress going to do?

Today we have an opportunity to act and we are not. I ask that we defeat this rule. I ask my colleagues to vote "no" on the previous question. Why? Because the majority refused to allow an amendment that I cosponsored with the gentleman from Michigan (Mr. CONYERS), the Corporate and Criminal Fraud Accountability Act, which gives a 10-year felony for defrauding shareholders of publicly-held companies. There is a penalty for destruction of evidence, it provides whistleblower protection, and a bureau in the DOJ that prosecutes such acts. Why can we not do something real for these people whose lives are now destroyed?

I rise to urge the Members to defeat the previous question so that the House can consider my amendment to toughen criminal penalties against white collar fraud and prevent future Enrons.

I'm amazed that after all of the outrageous abuses we have learned about in the Enron case that the Leadership would refuse to permit this body to even vote on these provisions. You would think that after the greatest white collar fraud in history, which cost tens of thousands of hard working Americans their jobs, their retirement, and their savings, that we would take action to prevent future Enrons. But the base bill does not provide a single increased criminal penalty to respond to this abuse.

My amendment would impose tough criminal and civil penalties on corporate wrong-

doers and takes a variety of actions to protect employees and shareholders against future acts of corporate fraud. Among other things, it creates a new 10-year felony for defrauding shareholders of publicly-traded companies; clarifies and strengthens current criminal laws relating to the destruction or fabrication of evidence, including the shredding of financial and audit records; provides whistle-blower protection to employees of publicly-traded companies; and establishes a new bureau within the Department of Justice to prosecute crimes involving securities and pension fraud.

My amendment would also give former employees enhanced priority in bankruptcy to protect their lost pensions. If we defeat the previous question, we can bring these measures up for a vote immediately, and take a strong stand against white collar fraud and in favor of working Americans.

In the wake of the Enron debacle, there can be no question that the time is ripe to protect American investors and employees. The Enron case has established beyond a shadow of a doubt that white collar fraud can be incredibly damaging, in many cases wiping away life savings and devastate entire communities. There can be no conceivable justification for shielding white collar criminals from criminal prosecution for their outrageous behavior.

This is why it is so important that we act today to prevent corporate wrongdoers from preying on innocent investors and employees. Vote no to defeat the previous question, and we can do just that.

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

Mr. FROST. Mr. Speaker, I yield myself the remaining time.

Mr. Speaker, again, I urge Members to oppose the previous question. If the previous question is defeated, I will offer an amendment to the rule that will allow the Conyers enforcement amendment to be offered.

Mr. Speaker, this amendment will give the base bill much-needed language to prosecute the corporations found guilty of pension fraud. It will create a new bureau within the Justice Department to prosecute crimes involving pension fraud and create a new 10-year felony for defrauding shareholders of publicly traded companies.

Mr. Speaker, no one here today opposes giving employees a greater role in managing and understanding their investments. That part of the bill we all support. However, it is absolutely critical that we send a message to those companies that might be tempted to follow the practices of Enron. They need to realize up front that if they do that, they will be severely punished. The Conyers amendment will do just that.

Vote "no" on the previous question so that we can add some teeth to this bill and really guarantee that those who defraud their employees will pay a severe price.

Mr. Speaker, I ask unanimous consent to insert the text of the amendment and extraneous materials immediately prior to the vote on the previous question.

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

There was no objection.

Mr. LINDER. Mr. Speaker, I yield myself the remaining time.

I urge my colleagues to support the previous question and the rule so that we can move on with debate on this important bill.

The amendment previously referred to by the gentleman from Texas (Mr. FROST) is as follows:

Strike all after the resolved clause and insert:

That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 3762) to amend title I of the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to provide additional protections to participants and beneficiaries in individual account plans from excessive investment in employer securities and to promote the provision of retirement investment advice to workers managing their retirement income assets, and to amend the Securities Exchange Act of 1934 to prohibit insider trades during any suspension of the ability of plan participants or beneficiaries to direct investment away from equity securities of the plan sponsor. The bill shall be considered as read for amendment. In lieu of the amendment recommended by the Committee on Education and the Workforce now printed in the bill, the amendment in the nature of a substitute printed in part A of the report of the Committee on Rules accompanying this resolution shall be considered as adopted. All points of order against the bill, as amended, are waived. The previous question shall be considered as ordered on the bill, as amended, and on any further amendment thereto to final passage without intervening motion except: (1) two hours of debate on the bill, as amended, equally divided among and controlled by the chairmen and ranking minority members of the Committees on Education and the Workforce and Ways and Means; (2) the further amendment specified in section 2, if offered by Representative Conyers of Michigan or his designee, which shall be in order without intervention of any point of order, shall be considered as read, and shall be separately debatable for 30 minutes equally divided and controlled by the proponent and an opponent; (3) the further amendment printed in part B of the report of the Committee on Rules, if offered by Representative Miller of California or Representative Rangel of New York or a designee, which shall be in order without intervention of any point of order, shall be considered as read, and shall be separately debatable for one hour equally divided and controlled by the proponent and an opponent; and (4) one motion to recommit with or without instructions.

SEC. 2. The amendment offered by Representative Conyers referred to in the first section of this resolution is as follows:

Add at the end the following new title (and amend the table of contents accordingly):

TITLE V—CORPORATE AND CRIMINAL FRAUD ACCOUNTABILITY

SEC. 501. CRIMINAL PENALTIES FOR ALTERING DOCUMENTS.

(a) IN GENERAL.—Chapter 73 of title 18, United States Code, is amended by adding at the end the following:

“§1519. Destruction, alteration, or falsification of records in Federal investigations and bankruptcy

“Whoever knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or makes a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the investigation or

proper administration of any matter within the jurisdiction of any department or agency of the United States or any case filed under title 11, or in relation to or contemplation of any such matter or case, shall be fined under this title, imprisoned not more than 5 years, or both.

“§ 1520. Destruction of corporate audit records

“(a) Any accountant who conducts an audit of an issuer of securities to which section 10A(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78j-1(a)) applies, shall maintain all documents (including electronic documents) sent, received, or created in connection with any audit, review, or other engagement for such issuer for a period of 5 years from the end of the fiscal period in which the audit, review, or other engagement was concluded.

“(b) Whoever knowingly and willfully violates subsection (a) shall be fined under this title, imprisoned not more than 5 years, or both.

“(c) Nothing in this section shall be deemed to diminish or relieve any person of any other duty or obligation, imposed by Federal or State law or regulation, to maintain, or refrain from destroying, any document.”

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by adding at the end the following new items:

“1519. Destruction, alteration, or falsification of records in Federal investigations and bankruptcy.

“1520. Destruction of corporate audit records.”

SEC. 502. CRIMINAL PENALTIES FOR DEFRAUDING SHAREHOLDERS OF PUBLICLY TRADED COMPANIES.

(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

“§ 1348. Securities fraud

“Whoever knowingly executes, or attempts to execute, a scheme or artifice—

“(1) to defraud any person in connection with any security registered under section 12 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78l, 78o(d)) or section 6 of the Securities Act of 1933 (15 U.S.C. 77f); or

“(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any money or property in connection with the purchase or sale of any security registered under section 12 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78l, 78o(d)) or section 6 of the Securities Act of 1933 (15 U.S.C. 77f),

shall be fined under this title, or imprisoned not more than 10 years, or both.”

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following new item:

“1348. Securities fraud.”

SEC. 503. REVIEW OF FEDERAL SENTENCING GUIDELINES FOR OBSTRUCTION OF JUSTICE AND EXTENSIVE CRIMINAL FRAUD.

Pursuant to section 994 of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and amend, as appropriate, the Federal Sentencing Guidelines and related policy statements to ensure that—

(1) the guideline offense levels and enhancements for an obstruction of justice offense are adequate in cases where documents or other physical evidence are actually destroyed or fabricated;

(2) the guideline offense levels and enhancements for violations of section 1519 or 1520 of title 18, United States Code, as added

by this Act, are sufficient to deter and punish that activity;

(3) the guideline offense levels and enhancements under United States Sentencing Guideline 2B1.1 (as in effect on the date of enactment of this Act) are sufficient for a fraud offense when the number of victims adversely involved is significantly greater than 50; and

(4) a specific offense characteristic enhancing sentencing is provided under United States Sentencing Guideline 2B1.1 (as in effect on the date of enactment of this Act) for a fraud offense that endangers the solvency or financial security of 1 or more victims.

SEC. 504. DEBTS NONDISCHARGEABLE IF INCURRED IN VIOLATION OF SECURITIES FRAUD LAWS.

Section 523(a) of title 11, United States Code, is amended—

(1) in paragraph (17), by striking “or” after the semicolon;

(2) in paragraph (18), by striking the period at the end and inserting “; or”; and

(3) by adding at the end, the following:

“(19) that—

“(A) arises under a claim relating to—

“(i) the violation of any of the Federal securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47)), any State securities laws, or any regulations or orders issued under such Federal or State securities laws; or

“(ii) common law fraud, deceit, or manipulation in connection with the purchase or sale of any security; and

“(B) results, in relation to any claim described in subparagraph (A), from—

“(i) any judgment, order, consent order, or decree entered in any Federal or State judicial or administrative proceeding;

“(ii) any settlement agreement entered into by the debtor; or

“(iii) any court or administrative order for any damages, fine, penalty, citation, restitutionary payment, disgorgement payment, attorney fee, cost, or other payment owed by the debtor.”

SEC. 505. INCREASED PROTECTION OF EMPLOYEES WAGES UNDER CHAPTER 11 PROCEEDINGS.

Section 507(a) of title 11, United States Code, is amended—

(1) in paragraph (3) by striking “90” and inserting “180”, and

(2) in paragraphs (3) and (4) by striking “\$4,000” each place it appears and inserting “\$10,000”.

SEC. 506. STATUTE OF LIMITATIONS FOR SECURITIES FRAUD.

(a) IN GENERAL.—Section 1658 of title 28, United States Code, is amended—

(1) by inserting “(a)” before “Except”; and

(2) by adding at the end the following:

“(b) Notwithstanding subsection (a), a private right of action that involves a claim of fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement concerning the securities laws, as defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47)), may be brought not later than the earlier of—

“(1) 5 years after the date on which the alleged violation occurred; or

“(2) 3 years after the date on which the alleged violation was discovered.”

(b) EFFECTIVE DATE.—The limitations period provided by section 1658(b) of title 28, United States Code, as added by this section, shall apply to all proceedings addressed by this section that are commenced on or after the date of enactment of this Act.

SEC. 507. PROTECTION FOR EMPLOYEES OF PUBLICLY TRADED COMPANIES WHO PROVIDE EVIDENCE OF FRAUD.

(a) IN GENERAL.—Chapter 73 of title 18, United States Code, is amended by inserting after section 1514 the following:

“§ 1514A. Civil action to protect against retaliation in fraud cases

“(a) WHISTLEBLOWER PROTECTION FOR EMPLOYEES OF PUBLICLY TRADED COMPANIES.—No company with securities registered under section 6 of the Securities Act of 1933 (15 U.S.C. 77f) or section 12 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78l, 78o(d)), or any officer, employee, contractor, subcontractor, or agent of such company, may discharge, demote, suspend, threaten, harass, or in any other manner discriminate against an employee in the terms and conditions of employment because of any lawful act done by the employee—

“(1) to provide information, cause information to be provided, or otherwise assist in an investigation regarding any conduct which the employee reasonably believes constitutes a violation of section 1341, 1343, 1344, or 1348, any rule or regulation of the Securities and Exchange Commission, or any provision of Federal law relating to fraud against shareholders, when the information or assistance is provided to or the investigation is conducted by—

“(A) a Federal regulatory or law enforcement agency;

“(B) any Member of Congress or any committee of Congress; or

“(C) a person with supervisory authority over the employee (or such other person working for the employer who has the authority to investigate, discover, or terminate misconduct); or

“(2) to file, cause to be filed, testify, participate in, or otherwise assist in a proceeding filed or about to be filed (with any knowledge of the employer) relating to an alleged violation of section 1341, 1343, 1344, or 1348, any rule or regulation of the Securities and Exchange Commission, or any provision of Federal law relating to fraud against shareholders.

“(b) ELECTION OF ACTION.—

“(1) IN GENERAL.—A person who alleges discharge or other discrimination by any person in violation of subsection (a) may seek relief under subsection (c), by—

“(A) filing a complaint with the Secretary of Labor; or

“(B) bringing an action at law or equity in the appropriate district court of the United States.

“(2) PROCEDURE.—

“(A) IN GENERAL.—An action under paragraph (1)(A) shall be governed under the rules and procedures set forth in section 42121(b) of title 49, United States Code.

“(B) EXCEPTION.—Notification made under section 42121(b)(1) of title 49, United States Code, shall be made to the person named in the complaint and to the employer.

“(C) BURDENS OF PROOF.—An action brought under paragraph (1)(B) shall be governed by the legal burdens of proof set forth in section 42121(b) of title 49, United States Code.

“(D) STATUTE OF LIMITATIONS.—An action under paragraph (1) shall be commenced not later than 180 days after the date on which the violation occurs.

“(c) REMEDIES.—

“(1) IN GENERAL.—An employee prevailing in any action under subsection (b)(1) (A) or (B) shall be entitled to all relief necessary to make the employee whole.

“(2) COMPENSATORY DAMAGES.—Relief for any action under paragraph (1) shall include—

“(A) reinstatement with the same seniority status that the employee would have had, but for the discrimination;

“(B) 2 times the amount of back pay, with interest; and

“(C) compensation for any special damages sustained as a result of the discrimination,

including litigation costs, expert witness fees, and reasonable attorney fees.

“(3) PUNITIVE DAMAGES.—

“(A) IN GENERAL.—In a case in which the finder of fact determines that the protected conduct of the employee under subsection (a) involved a substantial risk to the health, safety, or welfare of shareholders of the employer or the public, the finder of fact may award punitive damages to the employee.

“(B) FACTORS.—In determining the amount, if any, to be awarded under this paragraph, the finder of fact shall take into account—

“(i) the significance of the information or assistance provided by the employee under subsection (a) and the role of the employee in advancing any investigation, proceeding, congressional inquiry or action, or internal remedial process, or in protecting the health, safety, or welfare of shareholders of the employer or of the public;

“(ii) the nature and extent of both the actual and potential discrimination to which the employee was subjected as a result of the protected conduct of the employee under subsection (a); and

“(iii) the nature and extent of the risk to the health, safety, or welfare of shareholders or the public under subparagraph (A).

“(d) RIGHTS RETAINED BY EMPLOYEE.—

“(1) OTHER REMEDIES UNAFFECTED.—Nothing in this section shall be deemed to diminish the rights, privilege, or remedies of any employee under any Federal or State law, or under any collective bargaining agreement.

“(2) VOLUNTARY ADJUDICATION.—No employee may be compelled to adjudicate his or her rights under this section pursuant to an arbitration agreement.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by inserting after the item relating to section 1514 the following new item:

“1514A. Civil action to protect against retaliation in fraud cases.”.

SEC. 508. ESTABLISHMENT OF A RETIREMENT SECURITY FRAUD BUREAU.

(a) IN GENERAL.—Part II of title 28, United States Code, is amended by adding at the end the following:

“CHAPTER 40A—RETIREMENT SECURITY FRAUD BUREAU

“§ 600. Retirement Security Fraud Bureau

“(a) IN GENERAL.—The Attorney General shall establish a Retirement Security Fraud Bureau which shall be a bureau in the Department of Justice.

“(b) DIRECTOR.—

“(1) APPOINTMENT.—The head of the Retirement Security Fraud Bureau shall be the Director who shall be appointed by the Attorney General.

“(2) DUTIES AND POWERS.—The duties and powers of the Director are as follows:

“(A) Advise and make recommendations on matters relating to pension and securities fraud, in general, to the Assistant Attorney General of the Criminal Division.

“(B) Maintain a government-wide data access service, with access, in accordance with applicable legal requirements, to the following:

“(i) Information collected by the Department of Justice, the Department of the Treasury, and the Securities Exchange Commission on pension and securities fraud matters.

“(ii) Other privately and publicly available information on pension and securities fraud-related activities.

“(C) Analyze and disseminate the available data in accordance with applicable legal requirements, policies, and guidelines established by the Attorney General to—

“(i) identify possible criminal activity to appropriate Federal, State, local, and foreign law enforcement agencies;

“(ii) support ongoing criminal pension and securities fraud investigations;

“(iii) determine emerging trends and methods in pension and securities fraud matters; and

“(iv) support government initiatives against pension and securities fraud-related activities.

“(E) Furnish research, analytical, and informational services to financial institutions, to appropriate Federal regulatory agencies with regard to financial institutions, and to appropriate Federal, State, local, and foreign law enforcement authorities, in accordance with policies and guidelines established by the Department of Justice, in the interest of detection, prevention, and prosecution of pension and securities fraud-related crimes.

“(F) Establish and maintain a special unit dedicated to assisting Federal, State, local, and foreign law enforcement and regulatory authorities in combating pension and securities fraud.

“(G) Such other duties and powers as the Attorney General may delegate or prescribe.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the Retirement Security Fraud Bureau such sums as may be necessary for fiscal years 2003, 2004, 2005, and 2006.”.

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of part II of title 28, United States Code, is amended by adding at the end the following new item:

“40A. Retirement Security Fraud Bureau.”

Mr. LINDER. Mr. Speaker, I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

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

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

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

The Sergeant at Arms will notify absent Members.

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

The vote was taken by electronic device, and there were—yeas 218, nays 208, not voting 8, as follows:

[Roll No. 87]

YEAS—218

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehmert
Boehner
Bonilla

Bono
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss

Coble
Collins
Combest
Cooksey
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle

Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)

Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley

Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souders
Stearns
Stump
Sullivan
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—208

Abercrombie
Ackerman
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Cramer
Crowley
Cummings

Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Frank
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (OH)
Hall (TX)
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley

Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Klecza
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)

McCollum	Payne	Smith (WA)	Graves	Manzullo	Shadegg	Payne	Sawyer	Thompson (CA)
McDermott	Pelosi	Snyder	Green (WI)	McCrery	Shaw	Pelosi	Schakowsky	Thompson (MS)
McGovern	Peterson (MN)	Solis	Greenwood	McHugh	Shays	Peterson (MN)	Schiff	Thurman
McIntyre	Phelps	Spratt	Grucci	McInnis	Sherwood	Phelps	Scott	Tierney
McKinney	Pomeroy	Stark	Hansen	McKeon	Shimkus	Pomeroy	Serrano	Turner
McNulty	Price (NC)	Stenholm	Hart	Mica	Shuster	Price (NC)	Sherman	Udall (CO)
Meehan	Rahall	Strickland	Hastings (WA)	Miller, Dan	Simmmons	Rahall	Shows	Udall (NM)
Meek (FL)	Rangel	Stupak	Hayes	Miller, Gary	Simpson	Rangel	Skelton	Velazquez
Meeks (NY)	Reyes	Tanner	Hayworth	Miller, Jeff	Skeen	Reyes	Slaughter	Visclosky
Menendez	Rivers	Tauscher	Hefley	Moran (KS)	Smith (MI)	Rivers	Smith (WA)	Waters
Millender-	Rodriguez	Taylor (MS)	Herger	Morella	Smith (NJ)	Rodriguez	Snyder	Watson (CA)
McDonald	Roemer	Thompson (CA)	Hilleary	Myrick	Smith (TX)	Roemer	Solis	Watt (NC)
Miller, George	Ross	Thompson (MS)	Hobson	Nethercutt	Souder	Ross	Spratt	Waxman
Mink	Rothman	Thurman	Hoekstra	Ney	Stearns	Rothman	Stark	Weiner
Mollohan	Roybal-Allard	Tierney	Horn	Northup	Stump	Roybal-Allard	Stenholm	Wexler
Moore	Rush	Turner	Hostettler	Norwood	Sullivan	Rush	Strickland	Woolsey
Moran (VA)	Sabo	Udall (CO)	Houghton	Nussle	Sununu	Sabo	Stupak	Wu
Murtha	Sanchez	Udall (NM)	Hulshof	Osborne	Sweeney	Sanchez	Tanner	Wynn
Nadler	Sanders	Velazquez	Hunter	Ose	Tancred	Sanders	Tauscher	
Napolitano	Sandlin	Visclosky	Hyde	Oxley	Tauzin	Sandlin	Taylor (MS)	
Neal	Sawyer	Waters	Isakson	Paul	Taylor (NC)			
Oberstar	Schakowsky	Watson (CA)	Issa	Pence	Terry			
Obey	Schiff	Watt (NC)	Istook	Peterson (PA)	Thomas	Allen	Roukema	Towns
Olver	Scott	Waxman	Jenkins	Petri	Thornberry	Ford	Royce	Trafigant
Ortiz	Serrano	Weiner	Johnson (CT)	Pickering	Thune	Otter	Ryan (WI)	
Owens	Sherman	Wexler	Johnson (IL)	Pitts	Tiahrt	Pryce (OH)	Sessions	
Pallone	Shows	Woolsey	Johnson, Sam	Platts	Tiberi			
Pascrell	Skelton	Wu	Jones (NC)	Pombo	Toomey			
Pastor	Slaughter	Wynn	Keller	Portman	Upton			
			Kelly	Putnam	Vitter			
			Kennedy (MN)	Quinn	Walden			
			Kerns	Radanovich	Walsh			
			King (NY)	Ramstad	Wamp			
			Kingston	Regula	Watkins (OK)			
			Kirk	Rehberg	Watts (OK)			
			Knollenberg	Reynolds	Weldon (FL)			
			Kolbe	Riley	Weldon (PA)			
			LaHood	Rogers (KY)	Weller			
			Latham	Rogers (MI)	Whitfield			
			LaTourette	Rohrabacher	Wicker			
			Leach	Ros-Lehtinen	Wilson (NM)			
			Lewis (CA)	Ryun (KS)	Wilson (SC)			
			Lewis (KY)	Saxton	Wolf			
			Linder	Schaffer	Young (AK)			
			LoBiondo	Schrock	Young (FL)			
			Lucas (OK)	Sensenbrenner				

NOT VOTING—8

Allen	Roukema	Towns
Ford	Ryan (WI)	Trafigant
Pryce (OH)	Sessions	

□ 1150

Mrs. NAPOLITANO, Ms. SANCHEZ and Messrs. ROTHMAN, SCOTT, CROWLEY, ISRAEL, and TURNER changed their vote from “yea” to “nay.”

Mr. BAKER and Mr. LEWIS of California changed their vote from “nay” to “yea.”

So the previous question was ordered.

The result of the vote was announced as above recorded.

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

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

RECORDED VOTE

Mr. FROST. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

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

The vote was taken by electronic device, and there were—ayes 215, noes 209, not voting 10, as follows:

[Roll No. 88]

AYES—215

Aderholt	Calvert	Duncan
Akin	Camp	Dunn
Armey	Cannon	Ehlers
Bachus	Cantor	Ehrlich
Baker	Capito	Emerson
Ballenger	Castle	English
Barr	Chabot	Everett
Bartlett	Chambliss	Ferguson
Barton	Coble	Flake
Bass	Collins	Fletcher
Bereuter	Combest	Foley
Biggert	Cooksey	Forbes
Bilirakis	Cox	Fossella
Blunt	Crane	Frelinghuysen
Boehrlert	Crenshaw	Galleghy
Boehner	Cubin	Ganske
Bonilla	Culberson	Gekas
Bono	Cunningham	Gibbons
Boozman	Davis, Jo Ann	Gilchrist
Brady (TX)	Davis, Tom	Gillmor
Brown (SC)	Deal	Gilman
Bryant	DeLay	Goode
Burr	DeMint	Goodlatte
Burton	Diaz-Balart	Goss
Buyer	Doolittle	Graham
Callahan	Dreier	Granger

NOES—209

Abercrombie	Doggett
Ackerman	Dooley
Andrews	Doyle
Baca	Edwards
Baird	Engel
Baldacci	Eshoo
Baldwin	Etheridge
Barcia	Evans
Barrett	Farr
Becerra	Fattah
Bentsen	Filner
Berkley	Frank
Berman	Frost
Berry	Gephardt
Bishop	Gonzalez
Blagojevich	Gordon
Blumenauer	Green (TX)
Bonior	Gutierrez
Borski	Gutknecht
Boswell	Hall (OH)
Boucher	Hall (TX)
Boyd	Harman
Brady (PA)	Hastings (FL)
Brown (FL)	Hill
Brown (OH)	Hilliard
Capps	Hinchey
Capuano	Hinojosa
Cardin	Hoefel
Carson (IN)	Holden
Carson (OK)	Holt
Clay	Honda
Clayton	Hooley
Clement	Hoyer
Clyburn	Inslee
Condit	Israel
Conyers	Jackson (IL)
Costello	Jackson-Lee
Coyne	(TX)
Cramer	Jefferson
Crowley	John
Cummings	Johnson, E. B.
Davis (CA)	Jones (OH)
Davis (FL)	Kanjorski
Davis (IL)	Kaptur
DeFazio	Kennedy (RI)
DeGette	Kildee
DeHunt	Kilpatrick
DeLauro	Kind (WI)
Deutsch	Kleczka
Dicks	Kucinich
Dingell	LaFalce

Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-
McDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor

The SPEAKER pro tempore. Pursuant to clause 8, rule XX, the pending business is the question of the Speaker's approval of the Journal of the last day's proceedings.

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

RECORDED VOTE

Mr. McNULTY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

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

The vote was taken by electronic device, and there were—ayes 360, noes 56, answered “present” 1, not voting 17, as follows:

[Roll No. 89]

AYES—360

Abercrombie	Boehrlert	Castle
Ackerman	Boehner	Chabot
Akin	Bonilla	Chambliss
Andrews	Bonior	Clay
Armey	Bono	Clayton
Baca	Boozman	Clement
Bachus	Borski	Clyburn
Baker	Boswell	Coble
Baldacci	Boucher	Collins
Baldwin	Boyd	Combest
Barcia	Brady (TX)	Conyers
Barr	Brown (OH)	Cooksey
Barrett	Brown (SC)	Cox
Bartlett	Bryant	Coyne
Barton	Burr	Cramer
Bass	Burton	Crenshaw
Becerra	Buyer	Crowley
Bentsen	Callahan	Cubin
Bereuter	Calvert	Culberson
Berkley	Camp	Cummings
Berman	Cannon	Cunningham
Biggert	Cantor	Davis (CA)
Bilirakis	Capito	Davis (FL)
Bishop	Capps	Davis (IL)
Blagojevich	Cardin	Davis, Jo Ann
Blumenauer	Carson (IN)	Davis, Tom
Blunt	Carson (OK)	Deal

NOT VOTING—10

Allen	Roukema	Towns
Ford	Royce	Trafigant
Otter	Ryan (WI)	
Pryce (OH)	Sessions	

□ 1159

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. OTTER. Mr. Speaker, I was unavoidably detained for rollcall 88, on agreeing to House Resolution 386. Had I been present I would have voted “yea”.

THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 8, rule XX, the pending business is the question of the Speaker's approval of the Journal of the last day's proceedings.

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

DeGette Kelly Radanovich Delahunt Larsen (WA) Sabo
DeLay Kennedy (MN) Rahall Dingell Larson (CT) Schakowsky
DeMint Kennedy (RI) Ramstad English Lewis (GA) Slaughter
Deutsch Kerns Rangel Evans Lipinski Strickland
Diaz-Balart Kildee Regula Filner LoBiondo Stupak
Dicks Kilpatrick Rehberg Green (TX) Matheson Tauscher
Doggett Kind (WI) Reyes Gutierrez McDermott Taylor (MS)
Dooley King (NY) Reynolds Gutknecht McGovern Thompson (CA)
Doolittle Kingston Rodriguez McNulty Thompson (MS)
Doyle Kleczka Roemer Hastings (FL) Menendez Udall (CO)
Dreier Knollenberg Rogers (KY) Hilliard Moran (KS) Udall (NM)
Duncan Kolbe Rogers (MI) Hinchey Neal Visclosky
Dunn LaFalce Rohrabacher Holt Oberstar Waters
Edwards LaHood Ros-Lehtinen Jackson-Lee Obey Weiner
Ehlers Lampson Ross (TX) Oliver Weller
Ehrlich Langevin Rothman Kucinich Peterson (MN) Wu
Emerson Lantos Roybal-Allard
Engel Latham Royce
Eshoo LaTourette Rush
Etheridge Leach Ryun (KS)
Everett Lee Sanchez
Farr Levin Sanders
Fattah Lewis (CA) Sandlin
Ferguson Lewis (KY) Sawyer
Flake Linder Saxton
Fletcher Lofgren Schiff
Foley Lowey Schrock
Forbes Lucas (KY) Scott
Fossella Lucas (OK) Sensenbrenner
Frank Luther Serrano
Frelinghuysen Lynch Shadegg
Frost Maloney (CT) Shaw
Gallegly Maloney (NY) Shays
Ganske Manzullo Sherman
Gekas Markey Sherwood
Gephardt Mascara Shimkus
Gibbons Matsui Shows
Gilchrest McCarthy (MO) Shuster
Gillmor McCarthy (NY) Simmons
Gilman McCollum Simpson
Gonzalez McCrery Skeen
Goode McHugh Skelton
Goodlatte McInnis Smith (MI)
Gordon McIntyre Smith (NJ)
Goss McKeon Smith (TX)
Graham McKinney Smith (WA)
Granger Meehan Snyder
Graves Meeks (NY) Solis
Green (WI) Mica Souder
Greenwood Millender Spratt
Grucci McDonald Stark
Hall (OH) Miller, Dan Stearns
Hall (TX) Miller, Gary Stenholm
Hansen Miller, George Stump
Harman Miller, Jeff Sullivan
Hart Mink Sununu
Hastings (WA) Mollohan Sweeney
Hayes Moore Tanner
Hayworth Moran (VA) Tauzin
Herger Morella Taylor (NC)
Hill Murtha Terry
Hilleary Myrick Thomas
Hinojosa Nadler Thornberry
Hobson Napolitano Thune
Hoeffel Nethercutt Thurman
Hoekstra Ney Tiahrt
Holden Northup Tiberi
Honda Norwood Tierney
Hooley Nussle Toomey
Horn Ortiz Turner
Hostettler Osborne Upton
Houghton Ose Velazquez
Hoyer Otter Vitter
Hulshof Owens Walden
Hunter Oxley Walsh
Hyde Pallone Wamp
Inslee Pascrell Watkins (OK)
Isakson Pastor Watson (CA)
Israel Paul Watt (NC)
Issa Payne Watts (OK)
Istook Pelosi Waxman
Jackson (IL) Pence Weldon (FL)
Jefferson Peterson (PA) Weldon (PA)
Jenkins Petri Wexler
John Phelps Wicker
Johnson (CT) Pickering Wilson (NM)
Johnson (IL) Pitts Wilson (SC)
Johnson, E. B. Platts Wolf
Johnson, Sam Pombo Woolsey
Jones (NC) Pomeroy Wynn
Jones (OH) Portman Young (AK)
Kanjorski Price (NC) Young (FL)
Kaptur Putnam
Keller Quinn

NOES—56

Aderholt Brady (PA) Costello
Baird Capuano Crane
Berry Condit DeFazio

Delahunt Larsen (WA) Sabo
Dingell Larson (CT) Schakowsky
English Lewis (GA) Slaughter
Evans Lipinski Strickland
Filner LoBiondo Stupak
Green (TX) Matheson Tauscher
Gutierrez McDermott Taylor (MS)
Gutknecht McGovern Thompson (CA)
Hastings (FL) Menendez Thompson (MS)
Hefner Moran (KS) Udall (CO)
Hilliard Neal Udall (NM)
Hinchey Neal Visclosky
Holt Oberstar Waters
Jackson-Lee Obey Weiner
(TX) Oliver Weller
Kucinich Peterson (MN) Wu

ANSWERED "PRESENT"—1

Tancredo

NOT VOTING—17

Allen Meek (FL) Schaffer
Ballenger Pryce (OH) Sessions
Brown (FL) Riley Towns
DeLauro Rivers Traficant
Ford Roukema Whitfield
Kirk Ryan (WI)

□ 1210

So the Journal was approved.
The result of the vote was announced
as above recorded.

REMOVAL OF NAME OF MEMBER
AS COSPONSOR OF H.R. 3479

Mr. KUCINICH. Mr. Speaker, I ask unanimous consent my name be removed as a cosponsor of H.R. 3479.

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

There was no objection.

GENERAL LEAVE

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 3762.

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

There was no objection.

PENSION SECURITY ACT OF 2002

Mr. BOEHNER. Mr. Speaker, pursuant to House Resolution 386, I call up the bill (H.R. 3762) to amend title 1 of the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to provide additional protections to participants and beneficiaries in individual account plans from excessive investment in employer securities and to promote the provision of retirement investment advice to workers managing their retirement income assets, and to amend the Securities Exchange Act of 1934 to prohibit insider trades during any suspension of the ability of plan participants or beneficiaries to direct investment away from equity securities of the plan sponsor, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 386, the bill is considered read for amendment.

The text of H.R. 3762 is as follows:

H.R. 3762

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Pension Security Act of 2002".

SEC. 2. IMPROVED DISCLOSURE OF PENSION BENEFIT INFORMATION BY INDIVIDUAL ACCOUNT PLANS.

(a) PENSION BENEFIT STATEMENTS REQUIRED ON PERIODIC BASIS.—

(1) IN GENERAL.—Subsection (a) of section 105 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1025) is amended by inserting "and, in the case of an applicable individual account plan, shall furnish at least quarterly to each plan participant (and to each beneficiary with a right to direct investments)," after "who so requests in writing,".

(2) INFORMATION REQUIRED FROM INDIVIDUAL ACCOUNT PLANS.—Section 105 of such Act (29 U.S.C. 1025) is amended by adding at the end the following new subsection:

"(e)(1) The quarterly statements required under subsection (a) shall include (together with the information required in subsection (a)) the following:

"(A) the value of investments allocated to the individual account, including the value of any assets held in the form of employer securities, without regard to whether such securities were contributed by the plan sponsor or acquired at the direction of the plan or of the participant or beneficiary, and an explanation of any limitations or restrictions on the right of the participant or beneficiary to direct an investment; and

"(B) an explanation, written in a manner calculated to be understood by the average plan participant, of the importance, for the long-term retirement security of participants and beneficiaries, of a well-balanced and diversified investment portfolio, including a discussion of the risk of holding substantial portions of a portfolio in the security of any one entity, such as employer securities."

(3) DEFINITION OF APPLICABLE INDIVIDUAL ACCOUNT PLAN.—Section 3 of such Act (29 U.S.C. 1002) is amended by adding at the end the following new subsection:

"(42) The term 'applicable individual account plan' means any individual account plan, except that such term does not include an employee stock ownership plan (within the meaning of section 4975(e)(7) of the Internal Revenue Code of 1986) unless there are any contributions to such plan (or earnings thereunder) held within such plan that are subject to subsection (k)(3) or (m)(2) of section 401 of the Internal Revenue Code of 1986."

(b) CIVIL PENALTIES FOR FAILURE TO PROVIDE QUARTERLY BENEFIT STATEMENTS.—Section 502 of such Act (29 U.S.C. 1132) is amended—

(1) in subsection (a)(6), by striking "(5), or (6)" and inserting "(5), (6), or (7)";

(2) by redesignating paragraph (7) of subsection (c) as paragraph (8); and

(3) by inserting after paragraph (6) of subsection (c) the following new paragraph:

"(7) The Secretary may assess a civil penalty against any plan administrator of up to \$1,000 a day from the date of such plan administrator's failure or refusal to provide participants or beneficiaries with a benefit statement on at least a quarterly basis in accordance with section 105(a)."

SEC. 3. PROTECTION FROM SUSPENSIONS, LIMITATIONS, OR RESTRICTIONS ON ABILITY OF PARTICIPANT OR BENEFICIARY TO DIRECT OR DIVERSIFY PLAN ASSETS.

(a) IN GENERAL.—Section 101 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021) is amended—

(1) by redesignating the second subsection (h) as subsection (j); and

(2) by inserting after the first subsection (h) the following new subsection:

“(i) NOTICE OF SUSPENSION, LIMITATION, OR RESTRICTION ON ABILITY OF PARTICIPANT OR BENEFICIARY TO DIRECT INVESTMENTS IN INDIVIDUAL ACCOUNT PLAN.—

“(1) IN GENERAL.—In the case of an applicable individual account plan, the administrator shall notify participants and beneficiaries of any action that would have the effect of suspending, limiting, or restricting the ability of participants or beneficiaries to direct or diversify assets credited to their accounts.

“(2) NOTICE REQUIREMENTS.—

“(A) IN GENERAL.—The notices described in paragraph (1) shall—

“(i) be written in a manner calculated to be understood by the average plan participant and shall include the reasons for the suspension, limitation, or restriction, an identification of the investments affected, and the expected period of the suspension, limitation, or restriction, and

“(ii) be furnished at least 30 days in advance of the action suspending, limiting, or restricting the ability of the participants or beneficiaries to direct or diversify assets.

“(B) EXCEPTION TO 30-DAY NOTICE REQUIREMENT.—In any case in which—

“(i) a fiduciary of the plan determines, in writing, that a deferral of the suspension, limitation, or restriction would violate the requirements of subparagraph (A) or (B) of section 404(a)(1), or

“(ii) the inability to provide the 30-day advance notice is due to circumstances beyond the reasonable control of the plan administrator,

subparagraph (A)(ii) shall not apply, and the notice shall be furnished as soon as reasonably possible under the circumstances.

“(3) CHANGES IN EXPECTED PERIOD OF SUSPENSION, LIMITATION, OR RESTRICTION.—If, following the furnishing of the notice pursuant to this subsection, there is a change in the expected period of the suspension, limitation, or restriction on the right of a participant or beneficiary to direct or diversify assets, the administrator shall provide affected participants and beneficiaries advance notice of the change. Such notice shall meet the requirements of paragraph (2)(A)(i) in relation to the extended suspension, limitation, or restriction.”

(b) CIVIL PENALTIES FOR FAILURE TO PROVIDE NOTICE.—Section 502 of such Act (as amended by section 2(b)) is amended further—

(1) in subsection (a)(6), by striking “(6), or (7)” and inserting “(6), (7), or (8)”;

(2) by redesignating paragraph (8) of subsection (c) as paragraph (9); and

(3) by inserting after paragraph (7) of subsection (c) the following new paragraph:

“(8) The Secretary may assess a civil penalty against any person of up to \$100 a day from the date of the person's failure or refusal to provide notice to participants and beneficiaries in accordance with section 101(i). For purposes of this paragraph, each violation with respect to any single participant or beneficiary, shall be treated as a separate violation.”

(c) INAPPLICABILITY OF RELIEF FROM FIDUCIARY LIABILITY DURING SUSPENSION OF ABILITY OF PARTICIPANT OR BENEFICIARY TO DIRECT INVESTMENTS.—Section 404(c)(1) of such Act (29 U.S.C. 1104(c)(1)) is amended—

(1) in subparagraph (B), by inserting before the period the following: “, except that this subparagraph shall not apply for any period during which the ability of a participant or beneficiary to direct the investment of assets in his or her individual account is suspended by a plan sponsor or fiduciary”; and

(2) by adding at the end the following:

“Any limitation or restriction that may govern the frequency of transfers between investment vehicles shall not be treated as a suspension referred to in subparagraph (B) to the extent such limitation or restriction is disclosed to participants or beneficiaries through the summary plan description or materials describing specific investment alternatives under the plan.”

SEC. 4. LIMITATIONS ON RESTRICTIONS OF INVESTMENTS IN EMPLOYER SECURITIES.

(a) AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 204 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1107) is amended—

(1) by redesignating subsection (j) as subsection (k); and

(2) by inserting after subsection (i) the following new subsection:

“(j)(1) An applicable individual account plan may not acquire or hold any employer securities with respect to which there is any restriction on divestment by a participant or beneficiary on or after the date on which the participant has completed 3 years of participation (as defined in subsection (b)(4)) under the plan or (if the plan so provides) 3 years of service (as defined in section 203(b)(2)) with the employer.

“(2) For purposes of paragraph (1), the term ‘restriction on divestment’ includes—

“(A) any failure to offer at least 3 diversified investment options in which a participant or beneficiary may direct the proceeds from the divestment of employer securities, and

“(B) any restriction on the ability of a participant or beneficiary to choose from all otherwise available investment options in which such proceeds may be so directed.”

(b) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—

(1) IN GENERAL.—Subsection (a) of section 401 of the Internal Revenue Code of 1986 (relating to requirements for qualification) is amended by inserting after paragraph (34) the following new paragraph:

“(35) LIMITATIONS ON RESTRICTIONS UNDER APPLICABLE DEFINED CONTRIBUTION PLANS ON INVESTMENTS IN EMPLOYER SECURITIES.—

“(A) IN GENERAL.—A trust forming a part of an applicable defined contribution plan shall not constitute a qualified trust under this subsection if the plan acquires or holds any employer securities with respect to which there is any restriction on divestment by a participant or beneficiary on or after the date on which the participant has completed 3 years of participation (as defined in section 411(b)(4)) under the plan or (if the plan so provides) 3 years of service (as defined in section 411(a)(5)) with the employer.

“(B) DEFINITIONS.—For purposes of subparagraph (A)—

“(i) APPLICABLE DEFINED CONTRIBUTION PLAN.—The term ‘applicable defined contribution plan’ means any defined contribution plan, except that such term does not include an employee stock ownership plan (as defined in section 4975(e)(7)) unless there are any contributions to such plan (or earnings thereunder) held within such plan that are subject to subsections (k)(3) or (m)(2).

“(ii) RESTRICTION ON DIVESTMENT.—The term ‘restriction on divestment’ includes—

“(I) any failure to offer at least 3 diversified investment options in which a participant or beneficiary may direct the proceeds from the divestment of employer securities, and

“(II) any restriction on the ability of a participant or beneficiary to choose from all otherwise available investment options in which such proceeds may be so directed.”

(2) CONFORMING AMENDMENT.—Section 401(a)(28)(B) of such Code (relating to diver-

sification of investments) is amended by adding at the end the following new clause:

“(v) EXCEPTION.—This subparagraph shall not apply to an applicable defined contribution plan (as defined in paragraph (35)(B)(i)).”

SEC. 5. PROHIBITED TRANSACTION EXEMPTION FOR THE PROVISION OF INVESTMENT ADVICE.

(a) AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) EXEMPTION FROM PROHIBITED TRANSACTIONS.—Section 408(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108(b)) is amended by adding at the end the following new paragraph:

“(14)(A) Any transaction described in subparagraph (B) in connection with the provision of investment advice described in section 3(21)(A)(ii), in any case in which—

“(i) the investment of assets of the plan is subject to the direction of plan participants or beneficiaries,

“(ii) the advice is provided to the plan or a participant or beneficiary of the plan by a fiduciary adviser in connection with any sale, acquisition, or holding of a security or other property for purposes of investment of plan assets, and

“(iii) the requirements of subsection (g) are met in connection with the provision of the advice.

“(B) The transactions described in this subparagraph are the following:

“(i) the provision of the advice to the plan, participant, or beneficiary;

“(ii) the sale, acquisition, or holding of a security or other property (including any lending of money or other extension of credit associated with the sale, acquisition, or holding of a security or other property) pursuant to the advice; and

“(iii) the direct or indirect receipt of fees or other compensation by the fiduciary adviser or an affiliate thereof (or any employee, agent, or registered representative of the fiduciary adviser or affiliate) in connection with the provision of the advice or in connection with a sale, acquisition, or holding of a security or other property pursuant to the advice.”

(2) REQUIREMENTS.—Section 408 of such Act is amended further by adding at the end the following new subsection:

“(g) REQUIREMENTS RELATING TO PROVISION OF INVESTMENT ADVICE BY FIDUCIARY ADVISERS.—

“(1) IN GENERAL.—The requirements of this subsection are met in connection with the provision of investment advice referred to in section 3(21)(A)(ii), provided to an employee benefit plan or a participant or beneficiary of an employee benefit plan by a fiduciary adviser with respect to the plan in connection with any sale, acquisition, or holding of a security or other property for purposes of investment of amounts held by the plan, if—

“(A) in the case of the initial provision of the advice with regard to the security or other property by the fiduciary adviser to the plan, participant, or beneficiary, the fiduciary adviser provides to the recipient of the advice, at a time reasonably contemporaneous with the initial provision of the advice, a written notification (which may consist of notification by means of electronic communication)—

“(i) of all fees or other compensation relating to the advice that the fiduciary adviser or any affiliate thereof is to receive (including compensation provided by any third party) in connection with the provision of the advice or in connection with the sale, acquisition, or holding of the security or other property,

“(ii) of any material affiliation or contractual relationship of the fiduciary adviser or

affiliates thereof in the security or other property,

“(iii) of any limitation placed on the scope of the investment advice to be provided by the fiduciary adviser with respect to any such sale, acquisition, or holding of a security or other property,

“(iv) of the types of services provided by the fiduciary adviser in connection with the provision of investment advice by the fiduciary adviser, and

“(v) that the adviser is acting as a fiduciary of the plan in connection with the provision of the advice,

“(B) the fiduciary adviser provides appropriate disclosure, in connection with the sale, acquisition, or holding of the security or other property, in accordance with all applicable securities laws,

“(C) the sale, acquisition, or holding occurs solely at the direction of the recipient of the advice,

“(D) the compensation received by the fiduciary adviser and affiliates thereof in connection with the sale, acquisition, or holding of the security or other property is reasonable, and

“(E) the terms of the sale, acquisition, or holding of the security or other property are at least as favorable to the plan as an arm's length transaction would be.

“(2) STANDARDS FOR PRESENTATION OF INFORMATION.—The notification required to be provided to participants and beneficiaries under paragraph (1)(A) shall be written in a clear and conspicuous manner and in a manner calculated to be understood by the average plan participant and shall be sufficiently accurate and comprehensive to reasonably apprise such participants and beneficiaries of the information required to be provided in the notification.

“(3) EXEMPTION CONDITIONED ON CONTINUED AVAILABILITY OF REQUIRED INFORMATION ON REQUEST FOR 1 YEAR.—The requirements of paragraph (1)(A) shall be deemed not to have been met in connection with the initial or any subsequent provision of advice described in paragraph (1) to the plan, participant, or beneficiary if, at any time during the provision of advisory services to the plan, participant, or beneficiary, the fiduciary adviser fails to maintain the information described in clauses (i) through (iv) of subparagraph (A) in currently accurate form and in the manner described in paragraph (2) or fails—

“(A) to provide, without charge, such currently accurate information to the recipient of the advice no less than annually,

“(B) to make such currently accurate information available, upon request and without charge, to the recipient of the advice, or

“(C) in the event of a material change to the information described in clauses (i) through (iv) of paragraph (1)(A), to provide, without charge, such currently accurate information to the recipient of the advice at a time reasonably contemporaneous to the material change in information.

“(4) MAINTENANCE FOR 6 YEARS OF EVIDENCE OF COMPLIANCE.—A fiduciary adviser referred to in paragraph (1) who has provided advice referred to in such paragraph shall, for a period of not less than 6 years after the provision of the advice, maintain any records necessary for determining whether the requirements of the preceding provisions of this subsection and of subsection (b)(14) have been met. A transaction prohibited under section 406 shall not be considered to have occurred solely because the records are lost or destroyed prior to the end of the 6-year period due to circumstances beyond the control of the fiduciary adviser.

“(5) EXEMPTION FOR PLAN SPONSOR AND CERTAIN OTHER FIDUCIARIES.—

“(A) IN GENERAL.—Subject to subparagraph (B), a plan sponsor or other person who is a

fiduciary (other than a fiduciary adviser) shall not be treated as failing to meet the requirements of this part solely by reason of the provision of investment advice referred to in section 3(21)(A)(ii) (or solely by reason of contracting for or otherwise arranging for the provision of the advice), if—

“(i) the advice is provided by a fiduciary adviser pursuant to an arrangement between the plan sponsor or other fiduciary and the fiduciary adviser for the provision by the fiduciary adviser of investment advice referred to in such section,

“(ii) the terms of the arrangement require compliance by the fiduciary adviser with the requirements of this subsection, and

“(iii) the terms of the arrangement include a written acknowledgment by the fiduciary adviser that the fiduciary adviser is a fiduciary of the plan with respect to the provision of the advice.

“(B) CONTINUED DUTY OF PRUDENT SELECTION OF ADVISER AND PERIODIC REVIEW.—Nothing in subparagraph (A) shall be construed to exempt a plan sponsor or other person who is a fiduciary from any requirement of this part for the prudent selection and periodic review of a fiduciary adviser with whom the plan sponsor or other person enters into an arrangement for the provision of advice referred to in section 3(21)(A)(ii). The plan sponsor or other person who is a fiduciary has no duty under this part to monitor the specific investment advice given by the fiduciary adviser to any particular recipient of the advice.

“(C) AVAILABILITY OF PLAN ASSETS FOR PAYMENT FOR ADVICE.—Nothing in this part shall be construed to preclude the use of plan assets to pay for reasonable expenses in providing investment advice referred to in section 3(21)(A)(ii).

“(6) DEFINITIONS.—For purposes of this subsection and subsection (b)(14)—

“(A) FIDUCIARY ADVISER.—The term ‘fiduciary adviser’ means, with respect to a plan, a person who is a fiduciary of the plan by reason of the provision of investment advice by the person to the plan or to a participant or beneficiary and who is—

“(i) registered as an investment adviser under the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.) or under the laws of the State in which the fiduciary maintains its principal office and place of business,

“(ii) a bank or similar financial institution referred to in section 408(b)(4),

“(iii) an insurance company qualified to do business under the laws of a State,

“(iv) a person registered as a broker or dealer under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.),

“(v) an affiliate of a person described in any of clauses (i) through (iv), or

“(vi) an employee, agent, or registered representative of a person described in any of clauses (i) through (v) who satisfies the requirements of applicable insurance, banking, and securities laws relating to the provision of the advice.

“(B) AFFILIATE.—The term ‘affiliate’ of another entity means an affiliated person of the entity (as defined in section 2(a)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(3))).

“(C) REGISTERED REPRESENTATIVE.—The term ‘registered representative’ of another entity means a person described in section 3(a)(18) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(18)) (substituting the entity for the broker or dealer referred to in such section) or a person described in section 202(a)(17) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(17)) (substituting the entity for the investment adviser referred to in such section).”

(b) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—

(1) EXEMPTION FROM PROHIBITED TRANSACTIONS.—Subsection (d) of section 4975 of the Internal Revenue Code of 1986 (relating to exemptions from tax on prohibited transactions) is amended—

(A) in paragraph (14), by striking “or” at the end;

(B) in paragraph (15), by striking the period at the end and inserting “; or”; and

(C) by adding at the end the following new paragraph:

“(16) any transaction described in subsection (f)(7)(A) in connection with the provision of investment advice described in subsection (e)(3)(B), in any case in which—

“(A) the investment of assets of the plan is subject to the direction of plan participants or beneficiaries,

“(B) the advice is provided to the plan or a participant or beneficiary of the plan by a fiduciary adviser in connection with any sale, acquisition, or holding of a security or other property for purposes of investment of plan assets, and

“(C) the requirements of subsection (f)(7)(B) are met in connection with the provision of the advice.”

(2) ALLOWED TRANSACTIONS AND REQUIREMENTS.—Subsection (f) of such section 4975 (relating to other definitions and special rules) is amended by adding at the end the following new paragraph:

“(7) PROVISIONS RELATING TO INVESTMENT ADVICE PROVIDED BY FIDUCIARY ADVISERS.—

“(A) TRANSACTIONS ALLOWABLE IN CONNECTION WITH INVESTMENT ADVICE PROVIDED BY FIDUCIARY ADVISERS.—The transactions referred to in subsection (d)(16), in connection with the provision of investment advice by a fiduciary adviser, are the following:

“(i) the provision of the advice to the plan, participant, or beneficiary;

“(ii) the sale, acquisition, or holding of a security or other property (including any lending of money or other extension of credit associated with the sale, acquisition, or holding of a security or other property) pursuant to the advice; and

“(iii) the direct or indirect receipt of fees or other compensation by the fiduciary adviser or an affiliate thereof (or any employee, agent, or registered representative of the fiduciary adviser or affiliate) in connection with the provision of the advice or in connection with a sale, acquisition, or holding of a security or other property pursuant to the advice.

“(B) REQUIREMENTS RELATING TO PROVISION OF INVESTMENT ADVICE BY FIDUCIARY ADVISERS.—The requirements of this subparagraph (referred to in subsection (d)(16)(C)) are met in connection with the provision of investment advice referred to in subsection (e)(3)(B), provided to a plan or a participant or beneficiary of a plan by a fiduciary adviser with respect to the plan in connection with any sale, acquisition, or holding of a security or other property for purposes of investment of amounts held by the plan, if—

“(i) in the case of the initial provision of the advice with regard to the security or other property by the fiduciary adviser to the plan, participant, or beneficiary, the fiduciary adviser provides to the recipient of the advice, at a time reasonably contemporaneous with the initial provision of the advice, a written notification (which may consist of notification by means of electronic communication)—

“(I) of all fees or other compensation relating to the advice that the fiduciary adviser or any affiliate thereof is to receive (including compensation provided by any third party) in connection with the provision of the advice or in connection with the sale, acquisition, or holding of the security or other property,

“(II) of any material affiliation or contractual relationship of the fiduciary adviser or affiliates thereof in the security or other property.

“(III) of any limitation placed on the scope of the investment advice to be provided by the fiduciary adviser with respect to any such sale, acquisition, or holding of a security or other property.

“(IV) of the types of services provided by the fiduciary adviser in connection with the provision of investment advice by the fiduciary adviser, and

“(V) that the adviser is acting as a fiduciary of the plan in connection with the provision of the advice.

“(ii) the fiduciary adviser provides appropriate disclosure, in connection with the sale, acquisition, or holding of the security or other property, in accordance with all applicable securities laws.

“(iii) the sale, acquisition, or holding occurs solely at the direction of the recipient of the advice.

“(iv) the compensation received by the fiduciary adviser and affiliates thereof in connection with the sale, acquisition, or holding of the security or other property is reasonable, and

“(v) the terms of the sale, acquisition, or holding of the security or other property are at least as favorable to the plan as an arm's length transaction would be.

“(C) STANDARDS FOR PRESENTATION OF INFORMATION.—The notification required to be provided to participants and beneficiaries under subparagraph (B)(i) shall be written in a clear and conspicuous manner and in a manner calculated to be understood by the average plan participant and shall be sufficiently accurate and comprehensive to reasonably apprise such participants and beneficiaries of the information required to be provided in the notification.

“(D) EXEMPTION CONDITIONED ON MAKING REQUIRED INFORMATION AVAILABLE ANNUALLY, ON REQUEST, AND IN THE EVENT OF MATERIAL CHANGE.—The requirements of subparagraph (B)(i) shall be deemed not to have been met in connection with the initial or any subsequent provision of advice described in subparagraph (B) to the plan, participant, or beneficiary if, at any time during the provision of advisory services to the plan, participant, or beneficiary, the fiduciary adviser fails to maintain the information described in subclauses (I) through (IV) of subparagraph (B)(i) in currently accurate form and in the manner required by subparagraph (C), or fails—

“(i) to provide, without charge, such currently accurate information to the recipient of the advice no less than annually,

“(ii) to make such currently accurate information available, upon request and without charge, to the recipient of the advice, or

“(iii) in the event of a material change to the information described in subclauses (I) through (IV) of subparagraph (B)(i), to provide, without charge, such currently accurate information to the recipient of the advice at a time reasonably contemporaneous to the material change in information.

“(E) MAINTENANCE FOR 6 YEARS OF EVIDENCE OF COMPLIANCE.—A fiduciary adviser referred to in subparagraph (B) who has provided advice referred to in such subparagraph shall, for a period of not less than 6 years after the provision of the advice, maintain any records necessary for determining whether the requirements of the preceding provisions of this paragraph and of subsection (d)(16) have been met. A transaction prohibited under subsection (c)(1) shall not be considered to have occurred solely because the records are lost or destroyed prior to the end of the 6-year period due to circumstances beyond the control of the fiduciary adviser.

“(F) EXEMPTION FOR PLAN SPONSOR AND CERTAIN OTHER FIDUCIARIES.—A plan sponsor or other person who is a fiduciary (other than a fiduciary adviser) shall not be treated as failing to meet the requirements of this section solely by reason of the provision of investment advice referred to in subsection (e)(3)(B) (or solely by reason of contracting for or otherwise arranging for the provision of the advice), if—

“(i) the advice is provided by a fiduciary adviser pursuant to an arrangement between the plan sponsor or other fiduciary and the fiduciary adviser for the provision by the fiduciary adviser of investment advice referred to in such section,

“(ii) the terms of the arrangement require compliance by the fiduciary adviser with the requirements of this paragraph,

“(iii) the terms of the arrangement include a written acknowledgment by the fiduciary adviser that the fiduciary adviser is a fiduciary of the plan with respect to the provision of the advice, and

“(iv) the requirements of part 4 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 are met in connection with the provision of such advice.

“(G) DEFINITIONS.—For purposes of this paragraph and subsection (d)(16)—

“(i) FIDUCIARY ADVISER.—The term ‘fiduciary adviser’ means, with respect to a plan, a person who is a fiduciary of the plan by reason of the provision of investment advice by the person to the plan or to a participant or beneficiary and who is—

“(I) registered as an investment adviser under the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.) or under the laws of the State in which the fiduciary maintains its principal office and place of business,

“(II) a bank or similar financial institution referred to in subsection (d)(4),

“(III) an insurance company qualified to do business under the laws of a State,

“(IV) a person registered as a broker or dealer under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.),

“(V) an affiliate of a person described in any of subclauses (I) through (IV), or

“(VI) an employee, agent, or registered representative of a person described in any of subclauses (I) through (V) who satisfies the requirements of applicable insurance, banking, and securities laws relating to the provision of the advice.

“(ii) AFFILIATE.—The term ‘affiliate’ of another entity means an affiliated person of the entity (as defined in section 2(a)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(3))).

“(iii) REGISTERED REPRESENTATIVE.—The term ‘registered representative’ of another entity means a person described in section 3(a)(18) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(18)) (substituting the entity for the broker or dealer referred to in such section) or a person described in section 202(a)(17) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(17)) (substituting the entity for the investment adviser referred to in such section).”

SEC. 6. INSIDER TRADES DURING PENSION PLAN SUSPENSION PERIODS PROHIBITED.

Section 16 of the Securities Exchange Act of 1934 (15 U.S.C. 78p) is amended by adding at the end the following new subsection:

“(h) INSIDER TRADES DURING PENSION PLAN SUSPENSION PERIODS PROHIBITED.—

“(1) PROHIBITION.—It shall be unlawful for any such beneficial owner, director, or officer of an issuer, directly or indirectly, to purchase (or otherwise acquire) or sell (or otherwise transfer) any equity security of such issuer (other than an exempted security), during any pension plan suspension period with respect to such equity security.

“(2) REMEDY.—Any profit realized by such beneficial owner, director, or officer from any purchase (or other acquisition) or sale (or other transfer) in violation of this subsection shall inure to and be recoverable by the issuer irrespective of any intention on the part of such beneficial owner, director, or officer in entering into the transaction.

“(3) RULEMAKING PERMITTED.—The Commission may issue rules to clarify the application of this subsection, to ensure adequate notice to all persons affected by this subsection, and to prevent evasion thereof.

“(4) DEFINITIONS.—For purposes of this subsection—

“(A) PENSION PLAN SUSPENSION PERIOD.—The term ‘pension plan suspension period’ means, with respect to an equity security, any period during which the ability of a participant or beneficiary under an applicable individual account plan maintained by the issuer to direct the investment of assets in his or her individual account away from such equity security is suspended by the issuer or a fiduciary of the plan. Such term does not include any limitation or restriction that may govern the frequency of transfers between investment vehicles to the extent such limitation and restriction is disclosed to participants and beneficiaries through the summary plan description or materials describing specific investment alternatives under the plan.

“(B) APPLICABLE INDIVIDUAL ACCOUNT PLAN.—The term ‘applicable individual account plan’ has the meaning provided such term in section 3(42) of the Employee Retirement Income Security Act of 1974.”

SEC. 7. EFFECTIVE DATES AND RELATED RULES.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by sections 2, 3, 4, and 6 shall apply with respect to plan years beginning on or after January 1, 2003.

(b) SPECIAL RULE FOR COLLECTIVELY BARGAINED PLANS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified on or before the date of the enactment of this Act, subsection (a) shall be applied to benefits pursuant to, and individuals covered by, any such agreement by substituting for “January 1, 2003” the date of the commencement of the first plan year beginning on or after the earlier of—

(1) the later of—

(A) January 1, 2004, or

(B) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after the date of the enactment of this Act), or

(2) January 1, 2005.

(c) PLAN AMENDMENTS.—If the amendments made by sections 2, 3, and 4 of this Act require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after January 1, 2005, if—

(1) during the period after such amendments made by this Act take effect and before such first plan year, the plan is operated in accordance with the requirements of such amendments made by this Act, and

(2) such plan amendment applies retroactively to the period after such amendments made by this Act take effect and before such first plan year.

(d) AMENDMENTS RELATING TO INVESTMENT ADVICE.—The amendments made by section 5 shall apply with respect to advice referred to in section 3(21)(A)(ii) of the Employee Retirement Income Security Act of 1974 or section 4975(c)(3)(B) of the Internal Revenue Code of 1986 provided on or after January 1, 2003.

The SPEAKER pro tempore. In lieu of the amendment recommended by the Committee on Education and the Workforce printed in the bill, the amendment in the nature of a substitute printed in part A of House Report 107-396 is adopted.

The text of H.R. 3762, as amended pursuant to House Resolution 386, is as follows:

H.R. 3762

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Pension Security Act of 2002”.

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title and table of contents.

TITLE I—IMPROVEMENTS IN PENSION SECURITY

Sec. 101. Periodic pension benefits statements.

Sec. 102. Protection from suspensions, limitations, or restrictions on ability of participant or beneficiary to direct or diversify plan assets.

Sec. 103. Informational and educational support for pension plan fiduciaries.

Sec. 104. Diversification requirements for defined contribution plans that hold employer securities.

Sec. 105. Prohibited transaction exemption for the provision of investment advice.

Sec. 106. Study regarding impact on retirement savings of participants and beneficiaries by requiring consultants to advise plan fiduciaries of individual account plans.

Sec. 107. Treatment of qualified retirement planning services.

Sec. 108. Insider trades during pension fund blackout periods prohibited.

Sec. 109. Effective dates of title and related rules.

TITLE II—OTHER PROVISIONS RELATING TO PENSIONS

Sec. 201. Amendments to Retirement Protection Act of 1994.

Sec. 202. Reporting simplification.

Sec. 203. Improvement of Employee Plans Compliance Resolution System.

Sec. 204. Flexibility in nondiscrimination, coverage, and line of business rules.

Sec. 205. Extension to all governmental plans of moratorium on application of certain nondiscrimination rules applicable to State and local plans.

Sec. 206. Notice and consent period regarding distributions.

Sec. 207. Annual report dissemination.

Sec. 208. Technical corrections to Saver Act.

Sec. 209. Missing participants.

Sec. 210. Reduced PBGC premium for new plans of small employers.

Sec. 211. Reduction of additional PBGC premium for new and small plans.

Sec. 212. Authorization for PBGC to pay interest on premium overpayment refunds.

Sec. 213. Substantial owner benefits in terminated plans.

Sec. 214. Benefit suspension notice.

Sec. 215. Studies.

Sec. 216. Interest rate range for additional funding requirements.

Sec. 217. Provisions relating to plan amendments.

TITLE III—STOCK OPTIONS

Sec. 301. Exclusion of incentive stock options and employee stock purchase plan stock options from wages.

TITLE IV—SOCIAL SECURITY AND MEDICARE HELD HARMLESS

Sec. 401. Protection of Social Security and Medicare.

TITLE I—IMPROVEMENTS IN PENSION SECURITY

SEC. 101. PERIODIC PENSION BENEFITS STATEMENTS.

(a) AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) REQUIREMENTS.—

(A) IN GENERAL.—Section 105(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1025(a)) is amended to read as follows:

“(a)(1)(A) The administrator of an individual account plan shall furnish a pension benefit statement—

“(i) to each plan participant at least annually,

“(ii) to each plan beneficiary upon written request, and

“(iii) in the case of an applicable individual account plan, to each plan participant (and to each beneficiary with a right to direct investments) at least quarterly.

“(B) The administrator of a defined benefit plan shall furnish a pension benefit statement—

“(i) at least once every 3 years to each participant with a nonforfeitable accrued benefit who is employed by the employer maintaining the plan at the time the statement is furnished to participants, and

“(ii) to a plan participant or plan beneficiary of the plan upon written request.

“(2) A pension benefit statement under paragraph (1)—

“(A) shall indicate, on the basis of the latest available information—

“(i) the total benefits accrued, and

“(ii) the nonforfeitable pension benefits, if any, which have accrued, or the earliest date on which benefits will become nonforfeitable,

“(B) shall be written in a manner calculated to be understood by the average plan participant, and

“(C) may be provided in written form or in electronic or other appropriate form to the extent that such form is reasonably accessible to the recipient.

“(3) In the case of an applicable individual account plan, the requirements of paragraph (1)(A) shall be treated as met if the quarterly statement (together with the information required in subparagraphs (A) and (B) of subsection (d)(1)) is available electronically in reasonably accessible form, and the participant or beneficiary is provided at least once each year a notice that such statement (together with such information) is available in such form. Such notice shall be in written, electronic, or other appropriate form.

“(4)(A) In the case of a defined benefit plan, the requirements of paragraph (1)(B)(i) shall be treated as met with respect to a participant if the administrator provides the participant at least once each year with notice of the availability of the pension benefit statement and the ways in which the participant may obtain such statement. Such notice shall be provided in written, electronic, or other appropriate form, and may be included with other communications to the participant if done in a manner reasonably designed to attract the attention of the participant.

“(B) The Secretary may provide that years in which no employee or former employee benefits (within the meaning of section

410(b) of the Internal Revenue Code of 1986) under the plan need not be taken into account in determining the 3-year period under paragraph (1)(B)(i).”.

(B) CONFORMING AMENDMENTS.—

(i) Section 105 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1025) is amended by striking subsection (d).

(ii) Section 105(b) of such Act (29 U.S.C. 1025(b)) is amended to read as follows:

“(b) In no case shall a participant or beneficiary of a plan be entitled to more than one statement described in clause (i) or (ii) of subsection (a)(1)(A) or clause (i) or (ii) of subsection (a)(1)(B), whichever is applicable, in any 12-month period. If such report is required under subsection (a) to be furnished at least quarterly, the requirements of the preceding sentence shall be applied with respect to each quarter in lieu of the 12-month period.”.

(2) INFORMATION REQUIRED FROM APPLICABLE INDIVIDUAL ACCOUNT PLANS.—Section 105 of such Act (as amended by paragraph (1)) is amended further by adding at the end the following new subsection:

“(d)(1) The statements required to be provided at least quarterly under subsection (a) shall include (together with the information required in subsection (a)) the following:

“(A) the value of investments allocated to the individual account, including the value of any assets held in the form of employer securities, without regard to whether such securities were contributed by the plan sponsor or acquired at the direction of the plan or of the participant or beneficiary, and an explanation of any limitations or restrictions on the right of the participant or beneficiary to direct an investment; and

“(B) an explanation, written in a manner calculated to be understood by the average plan participant, of the importance, for the long-term retirement security of participants and beneficiaries, of a well-balanced and diversified investment portfolio, including a discussion of the risk of holding more than 25 percent of a portfolio in the security of any one entity, such as employer securities.

“(2) The value of any employer securities that are not readily tradable on an established securities market that is required to be reported under paragraph (1)(A) may be determined by using the most recent valuation of the employer securities.

“(3) The Secretary shall issue guidance and model notices which meet the requirements of this subsection.”.

(3) DEFINITION OF APPLICABLE INDIVIDUAL ACCOUNT PLAN.—Section 3 of such Act (29 U.S.C. 1002) is amended by adding at the end the following new paragraph:

“(42)(A) The term ‘applicable individual account plan’ means any individual account plan, except that such term does not include an employee stock ownership plan (within the meaning of section 4975(e)(7) of the Internal Revenue Code of 1986) unless there are any contributions to such plan (or earnings thereunder) held within such plan that are subject to subsection (k)(3) or (m)(2) of section 401 of the Internal Revenue Code of 1986. Such term shall not include a one-participant retirement plan.

“(B) The term ‘one-participant retirement plan’ means a retirement plan that—

“(i) on the first day of the plan year—

“(I) covered only the employer (and the employer’s spouse) and the employer owned the entire business (whether or not incorporated), or

“(II) covered only one or more partners (and their spouses) in a business partnership (including partners in an S or C corporation),

“(ii) meets the minimum coverage requirements of section 410(b) of the Internal Revenue Code of 1986 (as in effect on the date of

the enactment of this paragraph) without being combined with any other plan of the business that covers the employees of the business.

“(iii) does not provide benefits to anyone except the employer (and the employer’s spouse) or the partners (and their spouses),

“(iv) does not cover a business that is a member of an affiliated service group, a controlled group of corporations, or a group of businesses under common control, and

“(v) does not cover a business that leases employees.”.

(4) CIVIL PENALTIES FOR FAILURE TO PROVIDE QUARTERLY BENEFIT STATEMENTS.—Section 502 of such Act (29 U.S.C. 1132) is amended—

(A) in subsection (a)(6), by striking “(5), or (6)” and inserting “(5), (6), or (7)”;

(B) by redesignating paragraph (7) of subsection (c) as paragraph (8); and

(C) by inserting after paragraph (6) of subsection (c) the following new paragraph:

“(7) The Secretary may assess a civil penalty against any plan administrator of up to \$1,000 a day from the date of such plan administrator’s failure or refusal to provide participants or beneficiaries with a benefit statement on at least a quarterly basis in accordance with section 105(a)(1)(A)(iii).”.

(5) MODEL STATEMENTS.—The Secretary of Labor shall, not later than January 1, 2003, issue initial guidance and a model benefit statement, written in a manner calculated to be understood by the average plan participant, that may be used by plan administrators in complying with the requirements of section 105 of the Employee Retirement Income Security Act of 1974. Not later than 75 days after the date of the enactment of this Act, the Secretary shall promulgate interim final rules necessary to carry out the amendments made by this subsection.

(b) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—

(1) PROVISION OF INVESTMENT EDUCATION NOTICES TO PARTICIPANTS IN CERTAIN PLANS.—Section 414 of the Internal Revenue Code of 1986 (relating to definitions and special rules) is amended by adding at the end the following:

“(w) PROVISION OF INVESTMENT EDUCATION NOTICES TO PARTICIPANTS IN CERTAIN PLANS.—

“(1) IN GENERAL.—The plan administrator of an applicable pension plan shall provide to each applicable individual an investment education notice described in paragraph (2) at the time of the enrollment of the applicable individual in the plan and not less often than annually thereafter.

“(2) INVESTMENT EDUCATION NOTICE.—An investment education notice is described in this paragraph if such notice contains—

“(A) an explanation, for the long-term retirement security of participants and beneficiaries, of generally accepted investment principles, including principles of risk management and diversification, and

“(B) a discussion of the risk of holding substantial portions of a portfolio in the security of any one entity, such as employer securities.

“(3) UNDERSTANDABILITY.—Each notice required by paragraph (1) shall be written in a manner calculated to be understood by the average plan participant and shall provide sufficient information (as determined in accordance with guidance provided by the Secretary) to allow recipients to understand such notice.

“(4) FORM AND MANNER OF NOTICES.—The notices required by this subsection shall be in writing, except that such notices may be in electronic or other form (or electronically posted on the plan’s website) to the extent that such form is reasonably accessible to the applicable individual.

“(5) DEFINITIONS.—For purposes of this subsection—

“(A) APPLICABLE INDIVIDUAL.—The term ‘applicable individual’ means—

“(i) any participant in the applicable pension plan,

“(ii) any beneficiary who is an alternate payee (within the meaning of section 414(p)(8)) under a qualified domestic relations order (within the meaning of section 414(p)(1)(A)), and

“(iii) any beneficiary of a deceased participant or alternate payee.

“(B) APPLICABLE PENSION PLAN.—The term ‘applicable pension plan’ means—

“(i) a plan described in clause (i), (ii), or (iv) of section 219(g)(5)(A), and

“(ii) an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A),

which permits any participant to direct the investment of some or all of his account in the plan or under which the accrued benefit of any participant depends in whole or in part on hypothetical investments directed by the participant. Such term shall not include a one-participant retirement plan or a plan to which section 105 of the Employee Retirement Income Security Act of 1974 applies.

“(C) ONE-PARTICIPANT RETIREMENT PLAN DEFINED.—The term ‘one-participant retirement plan’ means a retirement plan that—

“(i) on the first day of the plan year—

“(I) covered only the employer (and the employer’s spouse) and the employer owned the entire business (whether or not incorporated), or

“(II) covered only one or more partners (and their spouses) in a business partnership (including partners in an S or C corporation),

“(ii) meets the minimum coverage requirements of section 410(b) without being combined with any other plan of the business that covers the employees of the business,

“(iii) does not provide benefits to anyone except the employer (and the employer’s spouse) or the partners (and their spouses),

“(iv) does not cover a business that is a member of an affiliated service group, a controlled group of corporations, or a group of businesses under common control, and

“(v) does not cover a business that leases employees.

“(6) CROSS REFERENCE.—

“For provisions relating to penalty for failure to provide the notice required by this section, see section 6652(m).”.

(2) PENALTY FOR FAILURE TO PROVIDE NOTICE.—Section 6652 of such Code (relating to failure to file certain information returns, registration statements, etc.) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (1) the following new subsection:

“(m) FAILURE TO PROVIDE INVESTMENT EDUCATION NOTICES TO PARTICIPANTS IN CERTAIN PLANS.—In the case of each failure to provide a written explanation as required by section 414(w) with respect to an applicable individual (as defined in such section), at the time prescribed therefor, unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid, on notice and demand of the Secretary and in the same manner as tax, by the person failing to provide such notice, an amount equal to \$100 for each such failure, but the total amount imposed on such person for all such failures during any calendar year shall not exceed \$50,000.”.

SEC. 102. PROTECTION FROM SUSPENSIONS, LIMITATIONS, OR RESTRICTIONS ON ABILITY OF PARTICIPANT OR BENEFICIARY TO DIRECT OR DIVERSIFY PLAN ASSETS.

(a) AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) NOTICE REQUIREMENTS.—

(A) IN GENERAL.—Section 101 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021) is amended—

(i) by redesignating the second subsection (h) as subsection (j); and

(ii) by inserting after the first subsection (h) the following new subsection:

“(i) NOTICE OF SUSPENSION, LIMITATION, OR RESTRICTION ON ABILITY OF PARTICIPANT OR BENEFICIARY TO DIRECT INVESTMENTS IN INDIVIDUAL ACCOUNT PLAN.—

“(1) DUTIES OF PLAN ADMINISTRATOR.—

“(A) IN GENERAL.—In the case of any action having the effect of temporarily suspending, limiting, or restricting any ability of participants or beneficiaries under an applicable individual account plan, which is otherwise available under the terms of such plan, to direct or diversify assets credited to their accounts, if such suspension, limitation, or restriction is for any period of more than 3 consecutive business days, the plan administrator shall—

“(i) in advance of taking such action, determine, in accordance with the requirements of part 4, that the expected period of suspension, limitation, or restriction is reasonable, and

“(ii) after making the determination under subparagraph (A) and in advance of taking such action, notify the plan participants and beneficiaries who are affected by such action in accordance with this subsection.

“(B) EXCEPTIONS.—Subparagraph (A) does not apply in connection with any suspension, limitation, or restriction—

“(i) which occurs by reason of the application of the securities laws (as defined in section 3(a)(47) of the Securities Exchange Act of 1934), or

“(ii) to the extent the suspension, limitation, or restriction is a change to the terms of the plan disclosed to participants or beneficiaries through the summary plan description or materials describing specific investment alternatives under the plan.

“(C) BUSINESS DAY.—For purposes of subparagraph (A), under regulations prescribed by the Secretary, the term ‘business day’ means—

“(i) in the case of a security which is traded on an established security market, any day on which such security may be traded on the principal securities market of such security, and

“(ii) in the case of a security which is not traded on an established security market, any calendar day.

“(2) NOTICE REQUIREMENTS.—

(A) IN GENERAL.—The notices described in paragraph (1) shall be written in a manner calculated to be understood by the average plan participant and shall include—

“(i) the reasons for the suspension, limitation, or restriction,

“(ii) an identification of the investments affected,

“(iii) the expected period of the suspension, limitation, or restriction,

“(iv) a statement that the plan administrator has evaluated the reasonableness of the expected period of suspension, limitation, or restriction,

“(v) a statement that the participant or beneficiary should evaluate the appropriateness of their current investment decisions in light of their inability to direct or diversify assets credited to their accounts during the expected period of suspension, limitation, or restriction, and

“(vi) such other matters as the Secretary may include in the model notices issued under subparagraph (E).

(B) PROVISION OF NOTICE.—Except as otherwise provided in this subsection, notices described in paragraph (1) shall be furnished to all participants and beneficiaries under

the plan at least 30 days in advance of the action suspending, limiting, or restricting the ability of the participants or beneficiaries to direct or diversify assets.

“(C) EXCEPTION TO 30-DAY NOTICE REQUIREMENT.—In any case in which—

“(i) a fiduciary of the plan determines, in writing, that a deferral of the suspension, limitation, or restriction would violate the requirements of subparagraph (A) or (B) of section 404(a)(1), or

“(ii) the inability to provide the 30-day advance notice is due to events that were unforeseeable or circumstances beyond the reasonable control of the plan administrator,

subparagraph (B) shall not apply, and the notice shall be furnished to all participants and beneficiaries under the plan as soon as reasonably possible under the circumstances unless such a notice in advance of the termination of the suspension, limitation, or restriction is impracticable.

“(D) WRITTEN NOTICE.—The notice required to be provided under this subsection shall be in writing, except that such notice may be in electronic or other form to the extent that such form is reasonably accessible to the recipient.

“(E) MODEL NOTICES.—The Secretary shall issue model notices which meet the requirements of this paragraph.

“(3) EXCEPTION FOR SUSPENSIONS, LIMITATIONS, OR RESTRICTIONS WITH LIMITED APPLICABILITY.—In any case in which the suspension, limitation, or restriction described in paragraph (1)—

“(A) applies only to 1 or more individuals, each of whom is the participant, an alternate payee (as defined in section 206(d)(3)(K)), or any other beneficiary pursuant to a qualified domestic relations order (as defined in section 206(d)(3)(B)(i)), or

“(B) applies only to 1 or more participants or beneficiaries in connection with a merger, acquisition, divestiture, or similar transaction involving the plan or plan sponsor and occurs solely in connection with becoming or ceasing to be a participant or beneficiary under the plan by reason of such merger, acquisition, divestiture, or transaction,

the requirement of this subsection that the notice be provided to all participants and beneficiaries shall be treated as met if the notice required under paragraph (1) is provided to all the individuals referred to in subparagraph (A) or (B) to whom the suspension, limitation, or restriction applies as soon as reasonably practicable.

“(4) CHANGES IN PERIOD OF SUSPENSION, LIMITATION, OR RESTRICTION.—If, following the furnishing of the notice pursuant to this subsection, there is a change in the period of the suspension, limitation, or restriction (specified in such notice pursuant to paragraph (2)(A)(iii)) on the right of a participant or beneficiary to direct or diversify assets, the administrator shall provide affected participants and beneficiaries notice of the change as soon as reasonably practicable. In relation to the extended suspension, limitation, or restriction, such notice shall meet the requirements of paragraph (2)(D) and shall specify any material change in the matters referred to in clauses (i) through (vi) of paragraph (2)(A).

“(5) REGULATORY EXCEPTIONS.—The Secretary may provide by regulation for additional exceptions to the requirements of this subsection which the Secretary determines are in the interests of participants and beneficiaries.

“(6) GUIDANCE AND MODEL NOTICES.—The Secretary shall issue guidance and model notices which meet the requirements of this subsection.”.

(B) ISSUANCE OF INITIAL GUIDANCE AND MODEL NOTICE.—The Secretary of Labor shall

issue initial guidance and a model notice pursuant to section 101(i)(6) of the Employee Retirement Income Security Act of 1974 (as added by this subsection) not later than January 1, 2003. Not later than 75 days after the date of the enactment of this Act, the Secretary shall promulgate interim final rules necessary to carry out the amendments made by this subsection.

(2) CIVIL PENALTIES FOR FAILURE TO PROVIDE NOTICE.—Section 502 of such Act (as amended by section 101(a)(4)) is amended further—

(A) in subsection (a)(6), by striking “(6), or (7)” and inserting “(6), (7), or (8)”;

(B) by redesignating paragraph (8) of subsection (c) as paragraph (9); and

(C) by inserting after paragraph (7) of subsection (c) the following new paragraph:

“(8) The Secretary may assess a civil penalty against a plan administrator of up to \$100 a day from the date of the plan administrator's failure or refusal to provide notice to participants and beneficiaries in accordance with section 101(i). For purposes of this paragraph, each violation with respect to any single participant or beneficiary shall be treated as a separate violation.”.

(3) INAPPLICABILITY OF RELIEF FROM FIDUCIARY LIABILITY DURING SUSPENSION OF ABILITY OF PARTICIPANT OR BENEFICIARY TO DIRECT INVESTMENTS.—Section 404(c)(1) of such Act (29 U.S.C. 1104(c)(1)) is amended—

(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and by inserting “(A)” after “(c)(1)”;

(B) in subparagraph (A)(ii) (as redesignated by subparagraph (A)), by inserting before the period the following: “, except that this clause shall not apply in connection with such participant or beneficiary for any period during which the ability of such participant or beneficiary to direct the investment of the assets in his or her account is suspended by a plan sponsor or fiduciary”; and

(C) by adding at the end the following new subparagraphs:

“(B) If the person referred to in subparagraph (A)(ii) meets the requirements of this title in connection with authorizing the suspension, such person shall not be liable under this title for any loss occurring during the suspension as a result of any exercise by the participant or beneficiary of control over assets in his or her account prior to the suspension. Matters to be considered in determining whether such person has satisfied the requirements of this title include whether such person—

“(i) has considered the reasonableness of the expected period of the suspension as required under section 101(i)(1)(A)(i),

“(ii) has provided the notice required under section 101(i)(1)(A)(ii), and

“(iii) has acted in accordance with the requirements of subsection (a) in determining whether to enter into the suspension.

“(C) Any limitation or restriction that may govern the frequency of transfers between investment vehicles shall not be treated as a suspension referred to in subparagraph (A)(ii) to the extent such limitation or restriction is disclosed to participants or beneficiaries through the summary plan description or materials describing specific investment alternatives under the plan.”.

(b) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—

(1) EXCISE TAX ON FAILURE OF PENSION PLANS TO PROVIDE NOTICE OF TRANSACTION RESTRICTION PERIODS.—

(A) IN GENERAL.—Chapter 43 of the Internal Revenue Code of 1986 (relating to qualified pension, etc., plans) is amended by adding at the end the following new section:

“SEC. 4980H. FAILURE OF APPLICABLE PLANS TO PROVIDE NOTICE OF TRANSACTION RESTRICTION PERIODS.

“(a) IMPOSITION OF TAX.—There is hereby imposed a tax on the failure of any applicable pension plan to meet the requirements of subsection (e) with respect to any applicable individual.

“(b) AMOUNT OF TAX.—The amount of the tax imposed by subsection (a) on any failure with respect to any applicable individual shall be \$100.

“(c) LIMITATIONS ON AMOUNT OF TAX.—

“(1) TAX NOT TO APPLY TO FAILURES CORRECTED AS SOON AS REASONABLY PRACTICABLE.—No tax shall be imposed by subsection (a) on any failure if—

“(A) any person subject to liability for the tax under subsection (d) exercised reasonable diligence to meet the requirements of subsection (e), and

“(B) such person provides the notice described in subsection (e) as soon as reasonably practicable after the first date such person knew, or exercising reasonable diligence should have known, that such failure existed and at least 1 business day before the beginning of the transaction restriction period.

“(2) TAX NOT TO APPLY WHEN PROVIDING NOTICE NOT REASONABLY PRACTICABLE.—No tax shall be imposed by subsection (a) if, in the case of the occurrence of an unforeseeable event, it is not reasonably practicable to provide such notice before the beginning of the transaction restriction period.

“(3) OVERALL LIMITATION FOR UNINTENTIONAL FAILURES.—

“(A) IN GENERAL.—If the person subject to liability for tax under subsection (d) exercised reasonable diligence to meet the requirements of subsection (e), the tax imposed by subsection (a) for failures during the taxable year of the employer (or, in the case of a multiemployer plan, the taxable year of the trust forming part of the plan) shall not exceed \$500,000. For purposes of the preceding sentence, all multiemployer plans of which the same trust forms a part shall be treated as 1 plan.

“(B) TAXABLE YEARS IN THE CASE OF CERTAIN CONTROLLED GROUPS.—For purposes of this paragraph, if all persons who are treated as a single employer for purposes of this section do not have the same taxable year, the taxable years taken into account shall be determined under principles similar to the principles of section 1561.

“(4) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive or otherwise inequitable relative to the failure involved.

“(d) LIABILITY FOR TAX.—The following shall be liable for the tax imposed by subsection (a):

“(1) In the case of a plan other than a multiemployer plan, the employer.

“(2) In the case of a multiemployer plan, the plan.

“(e) NOTICE OF TRANSACTION RESTRICTION PERIOD.—

“(1) IN GENERAL.—The plan administrator of an applicable pension plan shall provide written notice of any transaction restriction period to each applicable individual to whom the transaction restriction period applies (and to each employee organization representing such applicable individuals).

“(2) UNDERSTANDABILITY.—The notice required by paragraph (1) shall be written in a manner calculated to be understood by the average plan participant and shall provide sufficient information (as determined in accordance with guidance provided by the Secretary) to allow recipients to understand the timing and effect of such transaction restriction period.

“(3) TIMING OF NOTICE.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the notice required by paragraph (1) shall be provided at least 30 days before the beginning of the transaction restriction period.

“(B) DISPOSITION OF STOCK OR ASSETS.—

“(i) IN GENERAL.—If, in connection with the major corporate disposition by a corporation maintaining an applicable pension plan, there is the possibility of a transaction restriction period—

“(I) the notice required by paragraph (1) shall be provided at least 30 days before the date of such disposition, and

“(II) no other notice shall be required by paragraph (1) with respect to such period if notice is provided pursuant to subclause (I) and such period begins not more than 30 days after the date of such disposition.

Subclause (I) shall not apply if the plan administrator has a substantial basis to believe that there will be no transaction restriction period in connection with the disposition.

“(ii) MAJOR CORPORATE DISPOSITION.—For purposes of clause (i), the term ‘major corporate disposition’ means, with respect to a corporation—

“(I) the disposition of substantially all of the stock of such corporation or a subsidiary thereof, or

“(II) the disposition of substantially all of the assets used in a trade or business of such corporation or subsidiary.

“(iii) NONCORPORATE ENTITIES.—Rules similar to the rules of this subparagraph shall apply to entities that are not corporations.

“(4) FORM AND MANNER OF NOTICE.—The notice required by this subsection shall be in writing, except that such notice may be in electronic or other form to the extent that such form is reasonably accessible to the applicable individual.

“(f) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) APPLICABLE INDIVIDUAL.—The term ‘applicable individual’ means—

“(A) any participant in the applicable pension plan, and

“(B) any beneficiary who is an alternate payee (within the meaning of section 414(p)(8)) under a qualified domestic relations order (within the meaning of section 414(p)(1)(A)), and

“(C) any beneficiary of a deceased participant or alternate payee.

“(2) APPLICABLE PENSION PLAN.—

“(A) IN GENERAL.—The term ‘applicable pension plan’ means—

“(i) a plan described in clause (i), (ii), or (iv) of section 219(g)(5)(A), and

“(ii) an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A),

which maintains accounts for participants under the plan or under which the accrued benefit of any participant depends in whole or in part on hypothetical investments directed by the participant.

“(B) EXCEPTION.—Such term shall not include a one-participant retirement plan (as defined in section 4980G(f)(3)).

“(3) TRANSACTION RESTRICTION PERIOD.—

“(A) IN GENERAL.—The term ‘transaction restriction period’ means, with respect to an applicable pension plan, a period beginning on a day in which there is a substantial reduction in rights described in subparagraph (B) which are not restored as of the beginning of the 3rd day following the day of such reduction.

“(B) RIGHTS DESCRIBED.—For purposes of this paragraph, rights described in this section with respect to an applicable pension plan are rights under such plan of 1 or more applicable individuals to direct investments

in such plan, to obtain loans from such plan, or to obtain distributions from such plan.

“(C) SPECIAL RULE FOR EMPLOYER SECURITIES.—For purposes of this paragraph—

“(i) IN GENERAL.—In the case of rights relating to directing investments out of employer securities, such rights shall be treated as substantially reduced if such rights are significantly restricted for at least 3 consecutive business days.

“(ii) BUSINESS DAY.—For purposes of clause (i), under regulations prescribed by the Secretary, the term ‘business day’ means—

“(I) in the case of a security which is traded on an established security market, any day on which such security may be traded on the principal securities market of such security, and

“(II) in the case of a security which is not traded on an established security market, any calendar day.

“(iii) EMPLOYER SECURITIES.—For purposes of this subparagraph, the term ‘employer securities’ shall have the meaning given such term by section 407(d)(1) of the Employee Retirement Income Security Act of 1974.

“(D) EXCEPTIONS.—Rights which are substantially reduced by reason of the application of securities laws or other circumstances specified by the Secretary in regulations shall not be taken into account for purposes of this paragraph.”

(2) CLERICAL AMENDMENT.—The table of sections for chapter 43 of such Code is amended by adding at the end the following new item:

“Sec. 4980H. Failure of applicable plans to provide notice of transaction restriction periods.”

(3) GUIDANCE.—The Secretary of the Treasury, in consultation with the Secretary of Labor, shall issue guidance in carrying out section 4980H of the Internal Revenue Code of 1986 (as added by this section). Such guidance—

(A) in the case of a reduction of rights relating to the direction of investments out of employer securities, shall be issued by November 1, 2002 (or, if later, the 60th day after the date of the enactment of this Act), and

(B) in any other case, shall be issued not later than 120 days after the date of the enactment of this Act.

SEC. 103. INFORMATIONAL AND EDUCATIONAL SUPPORT FOR PENSION PLAN FIDUCIARIES.

Section 404 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104) is amended by adding at the end the following new subsection:

“(e) The Secretary shall establish a program under which information and educational resources shall be made available on an ongoing basis to persons serving as fiduciaries under employee pension benefit plans so as to assist such persons in diligently and effectively carrying out their fiduciary duties in accordance with this part.”

SEC. 104. DIVERSIFICATION REQUIREMENTS FOR DEFINED CONTRIBUTION PLANS THAT HOLD EMPLOYER SECURITIES.

(a) AMENDMENT TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 204 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1054) is amended—

(1) by redesignating subsection (j) as subsection (k); and

(2) by inserting after subsection (i) the following new subsection:

“(j) DIVERSIFICATION REQUIREMENTS FOR INDIVIDUAL ACCOUNT PLANS THAT HOLD EMPLOYER SECURITIES.—

“(1) IN GENERAL.—An applicable individual account plan shall meet the requirements of paragraphs (2) and (3).

“(2) EMPLOYEE CONTRIBUTIONS AND ELECTIVE DEFERRALS INVESTED IN EMPLOYER SECURITIES.—

In the case of the portion of the account attributable to employee contributions and elective deferrals which is invested in employer securities, a plan meets the requirements of this paragraph if each applicable individual may elect to direct the plan to divest any such securities in the individual's account and to reinvest an equivalent amount in other investment options which meet the requirements of paragraph (4).

“(3) EMPLOYER CONTRIBUTIONS INVESTED IN EMPLOYER SECURITIES.—

“(A) IN GENERAL.—In the case of the portion of the account attributable to employer contributions (other than elective deferrals to which paragraph (2) applies) which is invested in employer securities, a plan meets the requirements of this paragraph if, under the plan—

“(i) each applicable individual with a benefit based on 3 years of service may elect to direct the plan to divest any such securities in the individual's account and to reinvest an equivalent amount in other investment options which meet the requirements of paragraph (4), or

“(ii) with respect to any employer security allocated to an applicable individual's account during any plan year, such applicable individual may elect to direct the plan to divest such employer security after a date which is not later than 3 years after the end of such plan year and to reinvest an equivalent amount in other investment options which meet the requirements of paragraph (4).

“(B) APPLICABLE INDIVIDUAL WITH BENEFIT BASED ON 3 YEARS OF SERVICE.—For purposes of subparagraph (A), an applicable individual has a benefit based on 3 years of service if such individual would be an applicable individual if only participants in the plan who have completed at least 3 years of service (as determined under section 203(b)) were taken into account under paragraph (6)(B)(i).

“(4) INVESTMENT OPTIONS.—The requirements of this paragraph are met if—

“(A) the plan offers not less than 3 investment options, other than employer securities, to which an applicable individual may direct the proceeds from the divestment of employer securities pursuant to this subsection, each of which is diversified and has materially different risk and return characteristics, and

“(B) the plan permits the applicable individual to choose from any of the investment options made available under the plan to which such proceeds may be so directed, subject to such restrictions as may be provided by the plan limiting such choice to periodic, reasonable opportunities occurring no less frequently than on a quarterly basis.

“(5) DEFINITIONS AND RULES.—For purposes of this subsection—

“(A) APPLICABLE INDIVIDUAL ACCOUNT PLAN.—The term ‘applicable individual account plan’ means any individual account plan, except that such term does not include an employee stock ownership plan (within the meaning of section 4975(e)(7) of the Internal Revenue Code of 1986) unless there are any contributions to such plan (or earnings thereon) held within such plan that are subject to subsection (k)(3) or (m)(2) of section 401 of the Internal Revenue Code of 1986.

“(B) APPLICABLE INDIVIDUAL.—The term ‘applicable individual’ means—

“(i) any participant in the plan, and

“(ii) any beneficiary of a participant referred to in clause (i) who has an account under the plan with respect to which the beneficiary is entitled to exercise the rights of the participant.

“(C) ELECTIVE DEFERRAL.—The term ‘elective deferral’ means an employer contribution described in section 402(g)(3)(A) of the Internal Revenue Code of 1986 (as in effect on

the date of the enactment of this subsection).

“(D) EMPLOYER SECURITY.—The term ‘employer security’ shall have the meaning given such term by section 407(d)(1) of this Act (as in effect on the date of the enactment of this subsection).

“(E) EMPLOYEE STOCK OWNERSHIP PLAN.—The term ‘employee stock ownership plan’ shall have the same meaning given to such term by section 4975(e)(7) of the Internal Revenue Code of 1986 (as in effect on the date of the enactment of this subsection).

“(F) ELECTIONS.—Elections under this subsection may be made not less frequently than quarterly.

“(6) EXCEPTION WHERE THERE IS NO READILY TRADABLE STOCK.—This subsection shall not apply with respect to a plan if there is no class of stock issued by any employer maintaining the plan (or by a corporation which is an affiliate of any such employer, as defined in section 407(d)(7) as in effect on the date of the enactment of this subsection) that is readily tradable on an established securities market.

“(7) TRANSITION RULE.—

“(A) IN GENERAL.—In the case of any individual account plan which, on the first day of the first plan year to which this subsection applies, holds employer securities of any class that were acquired before such date and on which there is a restriction on diversification otherwise precluded by this subsection, this subsection shall apply to such securities of such class held in any plan year only with respect to the number of such securities equal to the applicable percentage of the total number of such securities of such class held on such date.

“(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be as follows:

“Plan years for which Applicable percentage: provisions are effective:

1st plan year	20 percent.
2nd plan year	40 percent.
3rd plan year	60 percent.
4th plan year	80 percent.
5th plan year or thereafter.	100 percent.

“(C) ELECTIVE DEFERRALS TREATED AS SEPARATE PLAN NOT INDIVIDUAL ACCOUNT PLAN.—For purposes of subparagraph (A), the applicable percentage shall be 100 percent with respect to—

“(i) employee contributions to a plan under which any portion attributable to elective deferrals is treated as a separate plan under section 407(b)(2) as of the date of the enactment of this paragraph, and

“(ii) such elective deferrals.

“(D) COORDINATION WITH PRIOR ELECTIONS.—In any case in which a divestiture of investment in employer securities of any class held by an employee stock ownership plan prior to the effective date of this subsection was undertaken pursuant to other applicable Federal law prior to such date, the applicable percentage (as determined without regard to this subparagraph) in connection with such securities shall be reduced to the extent necessary to account for the amount to which such election applied.

“(8) REGULATIONS.—The Secretary of the Treasury shall prescribe regulations under this subsection in consultation with the Secretary of Labor.”

(b) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—

(1) IN GENERAL.—Section 401(a) of the Internal Revenue Code of 1986 (relating to requirements for qualification) is amended by inserting after paragraph (34) the following new paragraph:

“(35) DIVERSIFICATION REQUIREMENTS FOR DEFINED CONTRIBUTION PLANS THAT HOLD EMPLOYER SECURITIES.—

“(A) IN GENERAL.—An applicable defined contribution plan shall meet the requirements of subparagraphs (B) and (C).

“(B) EMPLOYEE CONTRIBUTIONS AND ELECTIVE DEFERRALS INVESTED IN EMPLOYER SECURITIES.—In the case of the portion of the account attributable to employee contributions and elective deferrals which is invested in employer securities, a plan meets the requirements of this subparagraph if each applicable individual in such plan may elect to direct the plan to divest any such securities in the individual’s account and to reinvest an equivalent amount in other investment options which meet the requirements of subparagraph (D).

“(C) EMPLOYER CONTRIBUTIONS INVESTED IN EMPLOYER SECURITIES.—

“(1) IN GENERAL.—In the case of the portion of the account attributable to employer contributions (other than elective deferrals to which subparagraph (B) applies) which is invested in employer securities, a plan meets the requirements of this subparagraph if, under the plan—

“(I) each applicable individual with a benefit based on 3 years of service may elect to direct the plan to divest any such securities in the individual’s account and to reinvest an equivalent amount in other investment options which meet the requirements of subparagraph (D), or

“(II) with respect to any employer security allocated to an applicable individual’s account during any plan year, such applicable individual may elect to direct the plan to divest such employer security after a date which is not later than 3 years after the end of such plan year and to reinvest an equivalent amount in other investment options which meet the requirements of subparagraph (D).

“(i) APPLICABLE INDIVIDUAL WITH BENEFIT BASED ON 3 YEARS OF SERVICE.—For purposes of clause (i), an applicable individual has a benefit based on 3 years of service if such individual would be an applicable individual if only participants in the plan who have completed at least 3 years of service (as determined under section 411(a)) were taken into account under subparagraph (F)(ii)(I).

“(D) INVESTMENT OPTIONS.—The requirements of this subparagraph are met if—

“(i) the plan offers not less than 3 investment options, other than employer securities, to which an applicable individual may direct the proceeds from the divestment of employer securities pursuant to this paragraph, each of which is diversified and has materially different risk and return characteristics, and

“(ii) the plan permits the applicable individual to choose from any of the investment options made available under the plan to which such proceeds may be so directed, subject to such restrictions as may be provided by the plan limiting such choice to periodic, reasonable opportunities occurring no less frequently than on a quarterly basis.

“(E) DEFINITIONS AND RULES.—For purposes of this paragraph—

“(i) APPLICABLE DEFINED CONTRIBUTION PLAN.—The term ‘applicable defined contribution plan’ means any defined contribution plan, except that such term does not include an employee stock ownership plan (within the meaning of section 4975(e)(7)) unless there are any contributions to such plan (or earnings thereon) held within such plan that are subject to subsection (k)(3) or (m)(2).

“(ii) APPLICABLE INDIVIDUAL.—The term ‘applicable individual’ means—

“(I) any participant in the plan, and

“(II) any beneficiary of a participant referred to in clause (i) who has an account under the plan with respect to which the

beneficiary is entitled to exercise the rights of the participant.

“(iii) ELECTIVE DEFERRAL.—The term ‘elective deferral’ means an employer contribution described in section 402(g)(3)(A) (as in effect on the date of the enactment of this paragraph).

“(iv) EMPLOYER SECURITY.—The term ‘employer security’ shall have the meaning given such term by section 407(d)(1) of the Employee Retirement Income Security Act of 1974 (as in effect on the date of the enactment of this paragraph).

“(v) EMPLOYEE STOCK OWNERSHIP PLAN.—The term ‘employee stock ownership plan’ shall have the same meaning given to such term by section 4975(e)(7) of the Internal Revenue Code of 1986 (as in effect on the date of the enactment of this paragraph).

“(vi) ELECTIONS.—Elections under this paragraph may be made not less frequently than quarterly.

“(F) EXCEPTION WHERE THERE IS NO READILY TRADABLE STOCK.—This paragraph shall not apply with respect to a plan if there is no class of stock issued by any employer maintaining the plan that is readily tradable on an established securities market.

“(G) TRANSITION RULE.—

“(i) IN GENERAL.—In the case of any defined contribution plan which, on the effective date of this subsection, holds employer securities of any class that were acquired before such date and on which there is a restriction on diversification otherwise precluded by this paragraph, this paragraph shall apply to such securities of such class held in any plan year only with respect to the number of such securities equal to the applicable percentage of the total number of such securities of such class held on such date.

“(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage shall be as follows:

“Plan years for which Applicable percentage: provisions are effective:

1st plan year	20 percent.
2nd plan year	40 percent.
3rd plan year	60 percent.
4th plan year	80 percent.
5th plan year or thereafter.	100 percent.

“(iii) ELECTIVE DEFERRALS TREATED AS SEPARATE PLAN NOT INDIVIDUAL ACCOUNT PLAN.—For purposes of clause (i), the applicable percentage shall be 100 percent with respect to—

“(I) employee contributions to a plan under which any portion attributable to elective deferrals is treated as a separate plan under section 407(b)(2) of the Employee Retirement Income Security Act of 1974 as of the date of the enactment of this paragraph, and

“(II) such elective deferrals.

“(iv) CONTRIBUTIONS HELD WITHIN AN ESOP.—In the case of contributions (other than elective deferrals and employee contributions) held within an employee stock ownership plan, in the case of the 1st and 2nd plan years referred to in the table in clause (ii), the applicable percentage shall be the greater of the amount determined under clause (ii) or the percentage determined under paragraph (28) (determined as if paragraph (28) applied to a plan described in this paragraph).

“(v) COORDINATION WITH PRIOR ELECTIONS UNDER PARAGRAPH (28).—In any case in which a divestiture of investment in employer securities of any class held by an employee stock ownership plan prior to the effective date of this paragraph was undertaken pursuant to an election under paragraph (28) prior to such date, the applicable percentage (as determined without regard to this clause) in connection with such securities shall be reduced to the extent necessary to account

for the amount to which such election applied.

“(H) REGULATIONS.—The Secretary shall prescribe regulations under this paragraph in consultation with the Secretary of Labor.”.

(2) CONFORMING AMENDMENTS.—

(A) Section 401(a)(28) of such Code is amended by adding at the end the following new subparagraph:

“(D) APPLICATION.—This paragraph shall not apply to a plan to which paragraph (35) applies.”.

(B) Section 409(h)(7) of such Code is amended by inserting before the period at the end “or subparagraph (B) or (C) of section 401(a)(35)”.

(C) Section 4980(c)(3)(A) of such Code is amended by striking “if—” and all that follows and inserting “if the requirements of subparagraphs (B), (C), and (D) are met.”.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2) and section 109, the amendments made by this section shall apply to plan years beginning after December 31, 2002, and with respect to employer securities allocated to accounts before, on, or after the date of the enactment of this Act.

(2) EXCEPTION.—The amendments made by this section shall not apply to employer securities held by an employee stock ownership plan which are acquired before January 1, 1987.

SEC. 105. PROHIBITED TRANSACTION EXEMPTION FOR THE PROVISION OF INVESTMENT ADVICE.

(a) AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) EXEMPTION FROM PROHIBITED TRANSACTIONS.—Section 408(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108(b)) is amended by adding at the end the following new paragraph:

“(14)(A) Any transaction described in subparagraph (B) in connection with the provision of investment advice described in section 3(21)(A)(ii), in any case in which—

“(i) the investment of assets of the plan is subject to the direction of plan participants or beneficiaries,

“(ii) the advice is provided to the plan or a participant or beneficiary of the plan by a fiduciary adviser in connection with any sale, acquisition, or holding of a security or other property for purposes of investment of plan assets, and

“(iii) the requirements of subsection (g) are met in connection with the provision of the advice.

“(B) The transactions described in this subparagraph are the following:

“(i) the provision of the advice to the plan, participant, or beneficiary;

“(ii) the sale, acquisition, or holding of a security or other property (including any lending of money or other extension of credit associated with the sale, acquisition, or holding of a security or other property) pursuant to the advice; and

“(iii) the direct or indirect receipt of fees or other compensation by the fiduciary adviser or an affiliate thereof (or any employee, agent, or registered representative of the fiduciary adviser or affiliate) in connection with the provision of the advice or in connection with a sale, acquisition, or holding of a security or other property pursuant to the advice.”.

(2) REQUIREMENTS.—Section 408 of such Act is amended further by adding at the end the following new subsection:

“(g) REQUIREMENTS RELATING TO PROVISION OF INVESTMENT ADVICE BY FIDUCIARY ADVISERS.—

“(1) IN GENERAL.—The requirements of this subsection are met in connection with the provision of investment advice referred to in section 3(21)(A)(ii), provided to an employee

benefit plan or a participant or beneficiary of an employee benefit plan by a fiduciary adviser with respect to the plan in connection with any sale, acquisition, or holding of a security or other property for purposes of investment of amounts held by the plan, if—

“(A) in the case of the initial provision of the advice with regard to the security or other property by the fiduciary adviser to the plan, participant, or beneficiary, the fiduciary adviser provides to the recipient of the advice, at a time reasonably contemporaneous with the initial provision of the advice, a written notification (which may consist of notification by means of electronic communication)—

“(i) of all fees or other compensation relating to the advice that the fiduciary adviser or any affiliate thereof is to receive (including compensation provided by any third party) in connection with the provision of the advice or in connection with the sale, acquisition, or holding of the security or other property,

“(ii) of any material affiliation or contractual relationship of the fiduciary adviser or affiliates thereof in the security or other property,

“(iii) of any limitation placed on the scope of the investment advice to be provided by the fiduciary adviser with respect to any such sale, acquisition, or holding of a security or other property,

“(iv) of the types of services provided by the fiduciary adviser in connection with the provision of investment advice by the fiduciary adviser,

“(v) that the adviser is acting as a fiduciary of the plan in connection with the provision of the advice, and

“(vi) that a recipient of the advice may separately arrange for the provision of advice by another adviser, that could have no material affiliation with and receive no fees or other compensation in connection with the security or other property,

“(B) the fiduciary adviser provides appropriate disclosure, in connection with the sale, acquisition, or holding of the security or other property, in accordance with all applicable securities laws,

“(C) the sale, acquisition, or holding occurs solely at the direction of the recipient of the advice,

“(D) the compensation received by the fiduciary adviser and affiliates thereof in connection with the sale, acquisition, or holding of the security or other property is reasonable, and

“(E) the terms of the sale, acquisition, or holding of the security or other property are at least as favorable to the plan as an arm's length transaction would be.

(2) STANDARDS FOR PRESENTATION OF INFORMATION.—

“(A) IN GENERAL.—The notification required to be provided to participants and beneficiaries under paragraph (1)(A) shall be written in a clear and conspicuous manner and in a manner calculated to be understood by the average plan participant and shall be sufficiently accurate and comprehensive to reasonably apprise such participants and beneficiaries of the information required to be provided in the notification.

“(B) MODEL FORM FOR DISCLOSURE OF FEES AND OTHER COMPENSATION.—The Secretary shall issue a model form for the disclosure of fees and other compensation required in paragraph (1)(A)(i) which meets the requirements of subparagraph (A).

“(3) EXEMPTION CONDITIONED ON MAKING REQUIRED INFORMATION AVAILABLE ANNUALLY, ON REQUEST, AND IN THE EVENT OF MATERIAL CHANGE.—The requirements of paragraph (1)(A) shall be deemed not to have been met in connection with the initial or any subsequent provision of advice described in para-

graph (1) to the plan, participant, or beneficiary if, at any time during the provision of advisory services to the plan, participant, or beneficiary, the fiduciary adviser fails to maintain the information described in clauses (i) through (iv) of subparagraph (A) in currently accurate form and in the manner described in paragraph (2) or fails—

“(A) to provide, without charge, such currently accurate information to the recipient of the advice no less than annually,

“(B) to make such currently accurate information available, upon request and without charge, to the recipient of the advice, or

“(C) in the event of a material change to the information described in clauses (i) through (iv) of paragraph (1)(A), to provide, without charge, such currently accurate information to the recipient of the advice at a time reasonably contemporaneous to the material change in information.

“(4) MAINTENANCE FOR 6 YEARS OF EVIDENCE OF COMPLIANCE.—A fiduciary adviser referred to in paragraph (1) who has provided advice referred to in such paragraph shall, for a period of not less than 6 years after the provision of the advice, maintain any records necessary for determining whether the requirements of the preceding provisions of this subsection and of subsection (b)(14) have been met. A transaction prohibited under section 406 shall not be considered to have occurred solely because the records are lost or destroyed prior to the end of the 6-year period due to circumstances beyond the control of the fiduciary adviser.

(5) EXEMPTION FOR PLAN SPONSOR AND CERTAIN OTHER FIDUCIARIES.—

“(A) IN GENERAL.—Subject to subparagraph (B), a plan sponsor or other person who is a fiduciary (other than a fiduciary adviser) shall not be treated as failing to meet the requirements of this part solely by reason of the provision of investment advice referred to in section 3(21)(A)(ii) (or solely by reason of contracting for or otherwise arranging for the provision of the advice), if—

“(i) the advice is provided by a fiduciary adviser pursuant to an arrangement between the plan sponsor or other fiduciary and the fiduciary adviser for the provision by the fiduciary adviser of investment advice referred to in such section,

“(ii) the terms of the arrangement require compliance by the fiduciary adviser with the requirements of this subsection, and

“(iii) the terms of the arrangement include a written acknowledgment by the fiduciary adviser that the fiduciary adviser is a fiduciary of the plan with respect to the provision of the advice.

“(B) CONTINUED DUTY OF PRUDENT SELECTION OF ADVISER AND PERIODIC REVIEW.—Nothing in subparagraph (A) shall be construed to exempt a plan sponsor or other person who is a fiduciary from any requirement of this part for the prudent selection and periodic review of a fiduciary adviser with whom the plan sponsor or other person enters into an arrangement for the provision of advice referred to in section 3(21)(A)(ii). The plan sponsor or other person who is a fiduciary has no duty under this part to monitor the specific investment advice given by the fiduciary adviser to any particular recipient of the advice.

“(C) AVAILABILITY OF PLAN ASSETS FOR PAYMENT FOR ADVICE.—Nothing in this part shall be construed to preclude the use of plan assets to pay for reasonable expenses in providing investment advice referred to in section 3(21)(A)(ii).

“(6) DEFINITIONS.—For purposes of this subsection and subsection (b)(14)—

“(A) FIDUCIARY ADVISER.—The term ‘fiduciary adviser’ means, with respect to a plan, a person who is a fiduciary of the plan by reason of the provision of investment advice

by the person to the plan or to a participant or beneficiary and who is—

“(i) registered as an investment adviser under the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.) or under the laws of the State in which the fiduciary maintains its principal office and place of business,

“(ii) a bank or similar financial institution referred to in section 408(b)(4), but only if the advice is provided through a trust department of the bank or similar financial institution which is subject to periodic examination and review by Federal or State banking authorities,

“(iii) an insurance company qualified to do business under the laws of a State,

“(iv) a person registered as a broker or dealer under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.),

“(v) an affiliate of a person described in any of clauses (i) through (iv), or

“(vi) an employee, agent, or registered representative of a person described in any of clauses (i) through (v) who satisfies the requirements of applicable insurance, banking, and securities laws relating to the provision of the advice.

“(B) AFFILIATE.—The term ‘affiliate’ of another entity means an affiliated person of the entity (as defined in section 2(a)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(3))).

“(C) REGISTERED REPRESENTATIVE.—The term ‘registered representative’ of another entity means a person described in section 3(a)(18) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(18)) (substituting the entity for the broker or dealer referred to in such section) or a person described in section 202(a)(17) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(17)) (substituting the entity for the investment adviser referred to in such section).”.

(b) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—

(1) EXEMPTION FROM PROHIBITED TRANSACTIONS.—Subsection (d) of section 4975 of the Internal Revenue Code of 1986 (relating to exemptions from tax on prohibited transactions) is amended—

(A) in paragraph (14), by striking “or” at the end;

(B) in paragraph (15), by striking the period at the end and inserting “; or”; and

(C) by adding at the end the following new paragraph:

“(16) any transaction described in subsection (f)(7)(A) in connection with the provision of investment advice described in subsection (e)(3)(B), in any case in which—

“(A) the investment of assets of the plan is subject to the direction of plan participants or beneficiaries,

“(B) the advice is provided to the plan or a participant or beneficiary of the plan by a fiduciary adviser in connection with any sale, acquisition, or holding of a security or other property for purposes of investment of plan assets, and

“(C) the requirements of subsection (f)(7)(B) are met in connection with the provision of the advice.”.

(2) ALLOWED TRANSACTIONS AND REQUIREMENTS.—Subsection (f) of such section 4975 (relating to other definitions and special rules) is amended by adding at the end the following new paragraph:

“(7) PROVISIONS RELATING TO INVESTMENT ADVICE PROVIDED BY FIDUCIARY ADVISERS.—

“(A) TRANSACTIONS ALLOWABLE IN CONNECTION WITH INVESTMENT ADVICE PROVIDED BY FIDUCIARY ADVISERS.—The transactions referred to in subsection (d)(16), in connection with the provision of investment advice by a fiduciary adviser, are the following:

“(i) the provision of the advice to the plan, participant, or beneficiary;

“(ii) the sale, acquisition, or holding of a security or other property (including any lending of money or other extension of credit associated with the sale, acquisition, or holding of a security or other property) pursuant to the advice; and

“(iii) the direct or indirect receipt of fees or other compensation by the fiduciary adviser or an affiliate thereof (or any employee, agent, or registered representative of the fiduciary adviser or affiliate) in connection with the provision of the advice or in connection with a sale, acquisition, or holding of a security or other property pursuant to the advice.

“(B) REQUIREMENTS RELATING TO PROVISION OF INVESTMENT ADVICE BY FIDUCIARY ADVISERS.—The requirements of this subparagraph (referred to in subsection (d)(16)(C)) are met in connection with the provision of investment advice referred to in subsection (e)(3)(B), provided to a plan or a participant or beneficiary of a plan by a fiduciary adviser with respect to the plan in connection with any sale, acquisition, or holding of a security or other property for purposes of investment of amounts held by the plan, if—

“(i) in the case of the initial provision of the advice with regard to the security or other property by the fiduciary adviser to the plan, participant, or beneficiary, the fiduciary adviser provides to the recipient of the advice, at a time reasonably contemporaneous with the initial provision of the advice, a written notification (which may consist of notification by means of electronic communication)—

“(I) of all fees or other compensation relating to the advice that the fiduciary adviser or any affiliate thereof is to receive (including compensation provided by any third party) in connection with the provision of the advice or in connection with the sale, acquisition, or holding of the security or other property,

“(II) of any material affiliation or contractual relationship of the fiduciary adviser or affiliates thereof in the security or other property,

“(III) of any limitation placed on the scope of the investment advice to be provided by the fiduciary adviser with respect to any such sale, acquisition, or holding of a security or other property,

“(IV) of the types of services provided by the fiduciary adviser in connection with the provision of investment advice by the fiduciary adviser,

“(V) that the adviser is acting as a fiduciary of the plan in connection with the provision of the advice, and

“(VI) that a recipient of the advice may separately arrange for the provision of advice by another adviser, that could have no material affiliation with and receive no fees or other compensation in connection with the security or other property,

“(ii) the fiduciary adviser provides appropriate disclosure, in connection with the sale, acquisition, or holding of the security or other property, in accordance with all applicable securities laws,

“(iii) the sale, acquisition, or holding occurs solely at the direction of the recipient of the advice,

“(iv) the compensation received by the fiduciary adviser and affiliates thereof in connection with the sale, acquisition, or holding of the security or other property is reasonable, and

“(v) the terms of the sale, acquisition, or holding of the security or other property are at least as favorable to the plan as an arm's length transaction would be.

“(C) STANDARDS FOR PRESENTATION OF INFORMATION.—The notification required to be provided to participants and beneficiaries under subparagraph (B)(i) shall be written in

a clear and conspicuous manner and in a manner calculated to be understood by the average plan participant and shall be sufficiently accurate and comprehensive to reasonably apprise such participants and beneficiaries of the information required to be provided in the notification.

“(D) EXEMPTION CONDITIONED ON MAKING REQUIRED INFORMATION AVAILABLE ANNUALLY, ON REQUEST, AND IN THE EVENT OF MATERIAL CHANGE.—The requirements of subparagraph (B)(i) shall be deemed not to have been met in connection with the initial or any subsequent provision of advice described in subparagraph (B) to the plan, participant, or beneficiary if, at any time during the provision of advisory services to the plan, participant, or beneficiary, the fiduciary adviser fails to maintain the information described in subclauses (I) through (IV) of subparagraph (B)(i) in currently accurate form and in the manner required by subparagraph (C), or fails—

“(i) to provide, without charge, such currently accurate information to the recipient of the advice no less than annually,

“(ii) to make such currently accurate information available, upon request and without charge, to the recipient of the advice, or

“(iii) in the event of a material change to the information described in subclauses (I) through (IV) of subparagraph (B)(i), to provide, without charge, such currently accurate information to the recipient of the advice at a time reasonably contemporaneous to the material change in information.

“(E) MAINTENANCE FOR 6 YEARS OF EVIDENCE OF COMPLIANCE.—A fiduciary adviser referred to in subparagraph (B) who has provided advice referred to in such subparagraph shall, for a period of not less than 6 years after the provision of the advice, maintain any records necessary for determining whether the requirements of the preceding provisions of this paragraph and of subsection (d)(16) have been met. A transaction prohibited under subsection (c)(1) shall not be considered to have occurred solely because the records are lost or destroyed prior to the end of the 6-year period due to circumstances beyond the control of the fiduciary adviser.

“(F) EXEMPTION FOR PLAN SPONSOR AND CERTAIN OTHER FIDUCIARIES.—A plan sponsor or other person who is a fiduciary (other than a fiduciary adviser) shall not be treated as failing to meet the requirements of this section solely by reason of the provision of investment advice referred to in subsection (e)(3)(B) (or solely by reason of contracting for or otherwise arranging for the provision of the advice), if—

“(i) the advice is provided by a fiduciary adviser pursuant to an arrangement between the plan sponsor or other fiduciary and the fiduciary adviser for the provision by the fiduciary adviser of investment advice referred to in such section,

“(ii) the terms of the arrangement require compliance by the fiduciary adviser with the requirements of this paragraph,

“(iii) the terms of the arrangement include a written acknowledgment by the fiduciary adviser that the fiduciary adviser is a fiduciary of the plan with respect to the provision of the advice, and

“(iv) the requirements of part 4 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 are met in connection with the provision of such advice.

“(G) DEFINITIONS.—For purposes of this paragraph and subsection (d)(16)—

“(i) FIDUCIARY ADVISER.—The term ‘fiduciary adviser’ means, with respect to a plan, a person who is a fiduciary of the plan by reason of the provision of investment advice by the person to the plan or to a participant or beneficiary and who is—

“(I) registered as an investment adviser under the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.) or under the laws of the State in which the fiduciary maintains its principal office and place of business,

“(II) a bank or similar financial institution referred to in subsection (d)(4), but only if the advice is provided through a trust department of the bank or similar financial institution which is subject to periodic examination and review by Federal or State banking authorities,

“(III) an insurance company qualified to do business under the laws of a State,

“(IV) a person registered as a broker or dealer under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.),

“(V) an affiliate of a person described in any of subclauses (I) through (IV), or

“(VI) an employee, agent, or registered representative of a person described in any of subclauses (I) through (V) who satisfies the requirements of applicable insurance, banking, and securities laws relating to the provision of the advice.

“(ii) **AFFILIATE.**—The term ‘affiliate’ of another entity means an affiliated person of the entity (as defined in section 2(a)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(3))).

“(iii) **REGISTERED REPRESENTATIVE.**—The term ‘registered representative’ of another entity means a person described in section 3(a)(18) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(18)) (substituting the entity for the broker or dealer referred to in such section) or a person described in section 202(a)(17) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(17)) (substituting the entity for the investment adviser referred to in such section).”.

SEC. 106. STUDY REGARDING IMPACT ON RETIREMENT SAVINGS OF PARTICIPANTS AND BENEFICIARIES BY REQUIRING CONSULTANTS TO ADVISE PLAN FIDUCIARIES OF INDIVIDUAL ACCOUNT PLANS.

(a) **STUDY.**—As soon as practicable after the date of the enactment of this Act, the Secretary of Labor shall undertake a study of the costs and benefits to participants and beneficiaries of requiring independent consultants to advise plan fiduciaries in connection with individual account plans. In conducting such study, the Secretary shall consider—

(1) the benefits to plan participants and beneficiaries of engaging independent advisers to provide investment and other advice regarding the assets of the plan to persons who have fiduciary duties with respect to the management or disposition of such assets,

(2) the extent to which independent advisers are currently retained by plan fiduciaries,

(3) the availability of assistance to fiduciaries from appropriate Federal agencies,

(4) the availability of qualified independent consultants to serve the needs of individual account plan fiduciaries in the United States,

(5) the impact of the additional fiduciary duty of an independent advisor on the strict fiduciary obligations of plan fiduciaries,

(6) the impact of new requirements (consulting fees, reporting requirements, and new plan duties to prudently identify and contract with qualified independent consultants) on the availability of individual account plans, and

(7) the impact of a new requirement on the plan administration costs per participant for small and mid-size employers and the pension plans they sponsor.

(b) **REPORT.**—Not later than 1 year after the date of the enactment of this Act, the Secretary of Labor shall report the results of the study undertaken pursuant to this sec-

tion, together with any recommendations for legislative changes, to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate.

SEC. 107. TREATMENT OF QUALIFIED RETIREMENT PLANNING SERVICES.

(a) **IN GENERAL.**—Subsection (m) of section 132 of the Internal Revenue Code of 1986 (defining qualified retirement services) is amended by adding at the end the following new paragraph:

“(4) **NO CONSTRUCTIVE RECEIPT.**—No amount shall be included in the gross income of any employee solely because the employee may choose between any qualified retirement planning services provided by a qualified investment advisor and compensation which would otherwise be includible in the gross income of such employee. The preceding sentence shall apply to highly compensated employees only if the choice described in such sentence is available on substantially the same terms to each member of the group of employees normally provided education and information regarding the employer’s qualified employer plan.”.

(b) **CONFORMING AMENDMENTS.**—

(1) Section 403(b)(3)(B) of such Code is amended by inserting “132(m)(4),” after “132(f)(4).”.

(2) Section 414(s)(2) of such Code is amended by inserting “132(m)(4),” after “132(f)(4).”.

(3) Section 415(c)(3)(D)(ii) of such Code is amended by inserting “132(m)(4),” after “132(f)(4).”.

(c) **EFFECTIVE DATE.**—The amendment made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 108. INSIDER TRADES DURING PENSION FUND BLACKOUT PERIODS PROHIBITED.

(a) **PROHIBITION.**—It shall be unlawful for any person who is directly or indirectly the beneficial owner of more than 10 percent of any class of any equity security (other than an exempted security) which is registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l) or who is a director or an officer of the issuer of such security, directly or indirectly, to purchase (or otherwise acquire) or sell (or otherwise transfer) any equity security of any issuer (other than an exempted security), during any blackout period with respect to such equity security.

(b) **REMEDY.**—Any profit realized by such beneficial owner, director, or officer from any purchase (or other acquisition) or sale (or other transfer) in violation of this section shall inure to and be recoverable by the issuer irrespective of any intention on the part of such beneficial owner, director, or officer in entering into the transaction. Suit to recover such profit may be instituted at law or in equity in any court of competent jurisdiction by the issuer, or by the owner of any security of the issuer in the name and in behalf of the issuer if the issuer shall fail or refuse to bring such suit within 60 days after request or shall fail diligently to prosecute the same thereafter; but no such suit shall be brought more than 2 years after the date such profit was realized. This subsection shall not be construed to cover any transaction where such beneficial owner was not such both at the time of the purchase and sale, or the sale and purchase, of the security or security-based swap (as defined in section 206B of the Gramm-Leach-Bliley Act) involved, or any transaction or transactions which the Commission by rules and regulations may exempt as not comprehended within the purposes of this subsection.

(c) **RULEMAKING PERMITTED.**—The Commission may issue rules to clarify the application of this subsection, to ensure adequate notice to all persons affected by this subsection, and to prevent evasion thereof.

(d) As used in this section:

(1) **BENEFICIAL OWNER.**—The term “beneficial owner” has the meaning provided such term in rules or regulations issued by the Commission under section 16 of the Securities Exchange Act of 1934 (15 U.S.C. 78p).

(2) **BLACKOUT PERIOD.**—The term “blackout period” with respect to the equity securities of any issuer—

(A) means any period during which the ability of at least fifty percent of the participants or beneficiaries under all applicable individual account plans maintained by the issuer to purchase (or otherwise acquire) or sell (or otherwise transfer) an interest in any equity of such issuer is suspended by the issuer or a fiduciary of the plan; but

(B) does not include—

(i) a period in which the employees of an issuer may not allocate their interests in the individual account plan due to an express investment restriction—

(I) incorporated into the individual account plan; and

(II) timely disclosed to employees before joining the individual account plan or as a subsequent amendment to the plan;

(ii) any suspension described in subparagraph (A) that is imposed solely in connection with persons becoming participants or beneficiaries, or ceasing to be participants or beneficiaries, in an applicable individual account plan by reason of a corporate merger, acquisition, divestiture, or similar transaction.

(3) **COMMISSION.**—The term “Commission” means the Securities and Exchange Commission.

(4) **INDIVIDUAL ACCOUNT PLAN.**—The term “individual account plan” has the meaning provided such term in section 3(34) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(34)).

(5) **ISSUER.**—The term “issuer” shall have the meaning set forth in section 2(a)(4) of the Securities Act of 1933 (15 U.S.C. 77b(a)(4)).

SEC. 109. EFFECTIVE DATES OF TITLE AND RELATED RULES.

(a) **IN GENERAL.**—Except as otherwise provided in this title or in subsection (b), the amendments made by this title shall apply with respect to plan years beginning on or after January 1, 2003.

(b) **SPECIAL RULE FOR COLLECTIVELY BARGAINED PLANS.**—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified on or before the date of the enactment of this Act, subsection (a) shall be applied to benefits pursuant to, and individuals covered by, any such agreement by substituting for “January 1, 2003” the date of the commencement of the first plan year beginning on or after the earlier of—

(1) the later of—

(A) January 1, 2004, or

(B) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after the date of the enactment of this Act), or

(2) January 1, 2005.

(c) **PLAN AMENDMENTS.**—If the amendments made by sections 101, 102, 103, and 104 of this Act require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after January 1, 2005, if—

(1) during the period after such amendments made by such sections take effect and before such first plan year, the plan is operated in accordance with the requirements of such amendments made by such sections, and

(2) such plan amendment applies retroactively to the period after such amendments made by such sections take effect and before such first plan year.

(d) AMENDMENTS RELATING TO INVESTMENT ADVICE.—The amendments made by section 104 shall apply with respect to advice referred to in section 3(21)(A)(ii) of the Employee Retirement Income Security Act of 1974 or section 4975(c)(3)(B) of the Internal Revenue Code of 1986 provided on or after January 1, 2003.

TITLE II—OTHER PROVISIONS RELATING TO PENSIONS

SEC. 201. AMENDMENTS TO RETIREMENT PROTECTION ACT OF 1994.

(a) TRANSITION RULE MADE PERMANENT.—Paragraph (1) of section 769(c) of the Retirement Protection Act of 1994 is amended—

(1) by striking “transition” each place it appears in the heading and the text, and

(2) by striking “for any plan year beginning after 1996 and before 2010”.

(b) SPECIAL RULES.—Paragraph (2) of section 769(c) of the Retirement Protection Act of 1994 is amended to read as follows:

“(2) SPECIAL RULES.—The rules described in this paragraph are as follows:

“(A) For purposes of section 412(1)(9)(A) of the Internal Revenue Code of 1986 and section 302(d)(9)(A) of the Employee Retirement Income Security Act of 1974, the funded current liability percentage for any plan year shall be treated as not less than 90 percent.

“(B) For purposes of section 412(m) of the Internal Revenue Code of 1986 and section 302(e) of the Employee Retirement Income Security Act of 1974, the funded current liability percentage for any plan year shall be treated as not less than 100 percent.

“(C) For purposes of determining unfunded vested benefits under section 4006(a)(3)(E)(iii) of the Employee Retirement Income Security Act of 1974, the mortality table shall be the mortality table used by the plan.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2001.

SEC. 202. REPORTING SIMPLIFICATION.

(a) SIMPLIFIED ANNUAL FILING REQUIREMENT FOR OWNERS AND THEIR SPOUSES.—

(1) IN GENERAL.—The Secretary of the Treasury and the Secretary of Labor shall modify the requirements for filing annual returns with respect to one-participant retirement plans to ensure that such plans with assets of \$250,000 or less as of the close of the plan year need not file a return for that year.

(2) ONE-PARTICIPANT RETIREMENT PLAN DEFINED.—For purposes of this subsection, the term “one-participant retirement plan” means a retirement plan that—

(A) on the first day of the plan year—

(i) covered only the employer (and the employer's spouse) and the employer owned the entire business (whether or not incorporated); or

(ii) covered only one or more partners (and their spouses) in a business partnership (including partners in an S or C corporation);

(B) meets the minimum coverage requirements of section 410(b) of the Internal Revenue Code of 1986 without being combined with any other plan of the business that covers the employees of the business;

(C) does not provide benefits to anyone except the employer (and the employer's spouse) or the partners (and their spouses);

(D) does not cover a business that is a member of an affiliated service group, a controlled group of corporations, or a group of businesses under common control; and

(E) does not cover a business that leases employees.

(3) OTHER DEFINITIONS.—Terms used in paragraph (2) which are also used in section 414 of the Internal Revenue Code of 1986 shall

have the respective meanings given such terms by such section.

(4) EFFECTIVE DATE.—The provisions of this subsection shall apply to plan years beginning on or after January 1, 2002.

(b) SIMPLIFIED ANNUAL FILING REQUIREMENT FOR PLANS WITH FEWER THAN 25 EMPLOYEES.—In the case of plan years beginning after December 31, 2003, the Secretary of the Treasury and the Secretary of Labor shall provide for the filing of a simplified annual return for any retirement plan which covers less than 25 employees on the first day of a plan year and which meets the requirements described in subparagraphs (B), (D), and (E) of subsection (a)(2).

SEC. 203. IMPROVEMENT OF EMPLOYEE PLANS COMPLIANCE RESOLUTION SYSTEM.

The Secretary of the Treasury shall continue to update and improve the Employee Plans Compliance Resolution System (or any successor program) giving special attention to—

(1) increasing the awareness and knowledge of small employers concerning the availability and use of the program;

(2) taking into account special concerns and circumstances that small employers face with respect to compliance and correction of compliance failures;

(3) extending the duration of the self-correction period under the Self-Correction Program for significant compliance failures;

(4) expanding the availability to correct insignificant compliance failures under the Self-Correction Program during audit; and

(5) assuring that any tax, penalty, or sanction that is imposed by reason of a compliance failure is not excessive and bears a reasonable relationship to the nature, extent, and severity of the failure.

The Secretary of the Treasury shall have full authority to effectuate the foregoing with respect to the Employee Plans Compliance Resolution System (or any successor program) and any other employee plans correction policies, including the authority to waive income, excise, or other taxes to ensure that any tax, penalty, or sanction is not excessive and bears a reasonable relationship to the nature, extent, and severity of the failure.

SEC. 204. FLEXIBILITY IN NONDISCRIMINATION, COVERAGE, AND LINE OF BUSINESS RULES.

(a) NONDISCRIMINATION.—

(1) IN GENERAL.—The Secretary of the Treasury shall, by regulation, provide that a plan shall be deemed to satisfy the requirements of section 401(a)(4) of the Internal Revenue Code of 1986 if such plan satisfies the facts and circumstances test under section 401(a)(4) of such Code, as in effect before January 1, 1994, but only if—

(A) the plan satisfies conditions prescribed by the Secretary to appropriately limit the availability of such test; and

(B) the plan is submitted to the Secretary for a determination of whether it satisfies such test.

Subparagraph (B) shall only apply to the extent provided by the Secretary.

(2) EFFECTIVE DATES.—

(A) REGULATIONS.—The regulation required by paragraph (1) shall apply to years beginning after December 31, 2003.

(B) CONDITIONS OF AVAILABILITY.—Any condition of availability prescribed by the Secretary under paragraph (1)(A) shall not apply before the first year beginning not less than 120 days after the date on which such condition is prescribed.

(b) COVERAGE TEST.—

(1) IN GENERAL.—Section 410(b)(1) of the Internal Revenue Code of 1986 (relating to minimum coverage requirements) is amended by adding at the end the following:

“(D) In the case that the plan fails to meet the requirements of subparagraphs (A), (B) and (C), the plan—

“(i) satisfies subparagraph (B), as in effect immediately before the enactment of the Tax Reform Act of 1986,

“(ii) is submitted to the Secretary for a determination of whether it satisfies the requirement described in clause (i), and

“(iii) satisfies conditions prescribed by the Secretary by regulation that appropriately limit the availability of this subparagraph. Clause (ii) shall apply only to the extent provided by the Secretary.”.

(2) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendment made by paragraph (1) shall apply to years beginning after December 31, 2003.

(B) CONDITIONS OF AVAILABILITY.—Any condition of availability prescribed by the Secretary under regulations prescribed by the Secretary under section 410(b)(1)(D) of the Internal Revenue Code of 1986 shall not apply before the first year beginning not less than 120 days after the date on which such condition is prescribed.

(c) LINE OF BUSINESS RULES.—The Secretary of the Treasury shall, on or before December 31, 2003, modify the existing regulations issued under section 414(r) of the Internal Revenue Code of 1986 in order to expand (to the extent that the Secretary determines appropriate) the ability of a pension plan to demonstrate compliance with the line of business requirements based upon the facts and circumstances surrounding the design and operation of the plan, even though the plan is unable to satisfy the mechanical tests currently used to determine compliance.

SEC. 205. EXTENSION TO ALL GOVERNMENTAL PLANS OF MORATORIUM ON APPLICATION OF CERTAIN NONDISCRIMINATION RULES APPLICABLE TO STATE AND LOCAL PLANS.

(a) IN GENERAL.—

(1) Subparagraph (G) of section 401(a)(5) of the Internal Revenue Code of 1986 and subparagraph (H) of section 401(a)(26) of such Code are each amended by striking “section 414(d)” and all that follows and inserting “section 414(d))”.

(2) Subparagraph (G) of section 401(k)(3) of the Internal Revenue Code of 1986 and paragraph (2) of section 1505(d) of the Taxpayer Relief Act of 1997 are each amended by striking “maintained by a State or local government or political subdivision thereof (or agency or instrumentality thereof)”.

(b) CONFORMING AMENDMENTS.—

(1) The heading for subparagraph (G) of section 401(a)(5) of such Code is amended to read as follows: “GOVERNMENTAL PLANS.”.

(2) The heading for subparagraph (H) of section 401(a)(26) of such Code is amended to read as follows: “EXCEPTION FOR GOVERNMENTAL PLANS.”.

(3) Subparagraph (G) of section 401(k)(3) of such Code is amended by inserting “GOVERNMENTAL PLANS.” after “(G)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 2002.

SEC. 206. NOTICE AND CONSENT PERIOD REGARDING DISTRIBUTIONS.

(a) EXPANSION OF PERIOD.—

(1) AMENDMENT OF INTERNAL REVENUE CODE.—

(A) IN GENERAL.—Subparagraph (A) of section 417(a)(6) of the Internal Revenue Code of 1986 is amended by striking “90-day” and inserting “180-day”.

(B) MODIFICATION OF REGULATIONS.—The Secretary of the Treasury shall modify the regulations under sections 402(f), 411(a)(11), and 417 of the Internal Revenue Code of 1986 to substitute “180 days” for “90 days” each

place it appears in Treasury Regulations sections 1.402(f)-1, 1.411(a)-11(c), and 1.417(e)-1(b).

(2) AMENDMENT OF ERISA.—

(A) IN GENERAL.—Section 205(c)(7)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1055(c)(7)(A)) is amended by striking “90-day” and inserting “180-day”.

(B) MODIFICATION OF REGULATIONS.—The Secretary of the Treasury shall modify the regulations under part 2 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 to the extent that they relate to sections 203(e) and 205 of such Act to substitute “180 days” for “90 days” each place it appears.

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1)(A) and (2)(A) and the modifications required by paragraphs (1)(B) and (2)(B) shall apply to years beginning after December 31, 2002.

(b) CONSENT REGULATION INAPPLICABLE TO CERTAIN DISTRIBUTIONS.—

(1) IN GENERAL.—The Secretary of the Treasury shall modify the regulations under section 411(a)(11) of the Internal Revenue Code of 1986 and under section 205 of the Employee Retirement Income Security Act of 1974 to provide that the description of a participant's right, if any, to defer receipt of a distribution shall also describe the consequences of failing to defer such receipt.

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—The modifications required by paragraph (1) shall apply to years beginning after December 31, 2002.

(B) REASONABLE NOTICE.—In the case of any description of such consequences made before the date that is 90 days after the date on which the Secretary of the Treasury issues a safe harbor description under paragraph (1), a plan shall not be treated as failing to satisfy the requirements of section 411(a)(11) of such Code or section 205 of such Act by reason of the failure to provide the information required by the modifications made under paragraph (1) if the Administrator of such plan makes a reasonable attempt to comply with such requirements.

SEC. 207. ANNUAL REPORT DISSEMINATION.

(a) REPORT AVAILABLE THROUGH ELECTRONIC MEANS.—Section 104(b)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024(b)(3)) is amended by adding at the end the following new sentence: “The requirement to furnish information under the previous sentence with respect to an employee pension benefit plan shall be satisfied if the administrator makes such information reasonably available through electronic means or other new technology.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to reports for years beginning after December 31, 2002.

SEC. 208. TECHNICAL CORRECTIONS TO SAVER ACT.

Section 517 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1147) is amended—

(1) in subsection (a), by striking “2001 and 2005 on or after September 1 of each year involved” and inserting “2002, 2006, and 2010”;

(2) in subsection (b), by adding at the end the following new sentence: “To effectuate the purposes of this paragraph, the Secretary may enter into a cooperative agreement, pursuant to the Federal Grant and Cooperative Agreement Act of 1977 (31 U.S.C. 6301 et seq.), with any appropriate, qualified entity.”;

(3) in subsection (e)(2)—

(A) by striking “Committee on Labor and Human Resources” in subparagraph (D) and inserting “Committee on Health, Education, Labor, and Pensions”;

(B) by striking subparagraph (F) and inserting the following:

“(F) the Chairman and Ranking Member of the Subcommittee on Labor, Health and Human Services, and Education of the Committee on Appropriations of the House of Representatives and the Chairman and Ranking Member of the Subcommittee on Labor, Health and Human Services, and Education of the Committee on Appropriations of the Senate.”;

(C) by redesignating subparagraph (G) as subparagraph (J); and

(D) by inserting after subparagraph (F) the following new subparagraphs:

“(G) the Chairman and Ranking Member of the Committee on Finance of the Senate;

“(H) the Chairman and Ranking Member of the Committee on Ways and Means of the House of Representatives;

“(I) the Chairman and Ranking Member of the Subcommittee on Employer-Employee Relations of the Committee on Education and the Workforce of the House of Representatives; and”;

(4) in subsection (e)(3)—

(A) by striking “There shall be not more than 200 additional participants.” in subparagraph (A) and inserting “The participants in the National Summit shall also include additional participants appointed under this subparagraph.”;

(B) by striking “one-half shall be appointed by the President,” in subparagraph (A)(i) and inserting “not more than 100 participants shall be appointed under this clause by the President.”;

(C) by striking “one-half shall be appointed by the elected leaders of Congress” in subparagraph (A)(ii) and inserting “not more than 100 participants shall be appointed under this clause by the elected leaders of Congress”;

(D) by redesignating subparagraph (B) as subparagraph (C); and

(E) by inserting after subparagraph (A) the following new subparagraph:

“(B) PRESIDENTIAL AUTHORITY FOR ADDITIONAL APPOINTMENTS.—The President, in consultation with the elected leaders of Congress referred to in subsection (a), may appoint under this subparagraph additional participants to the National Summit. The number of such additional participants appointed under this subparagraph may not exceed the lesser of 3 percent of the total number of all additional participants appointed under this paragraph, or 10. Such additional participants shall be appointed from persons nominated by an organization referred to in subsection (b) which is made up of private sector businesses and associations partnered with Government entities to promote long term financial security in retirement through savings and with which the Secretary is required thereunder to consult and cooperate and shall not be Federal, State, or local government employees.”;

(5) in subsection (e)(3)(C) (as redesignated), by striking “January 31, 1998” and inserting “3 months before the convening of each summit.”;

(6) in subsection (f)(1)(C), by inserting “, no later than 90 days prior to the date of the commencement of the National Summit,” after “comment”;

(7) in subsection (g), by inserting “, in consultation with the congressional leaders specified in subsection (e)(2),” after “report” the first place it appears;

(8) in subsection (i)—

(A) by striking “for fiscal years beginning on or after October 1, 1997.”; and

(B) by adding at the end the following new paragraph:

“(3) RECEPTION AND REPRESENTATION AUTHORITY.—The Secretary is hereby granted reception and representation authority limited specifically to the events at the National Summit. The Secretary shall use any

private contributions accepted in connection with the National Summit prior to using funds appropriated for purposes of the National Summit pursuant to this paragraph.”; and

(9) in subsection (k)—

(A) by striking “shall enter into a contract on a sole-source basis” and inserting “may enter into a contract on a sole-source basis”; and

(B) by striking “in fiscal year 1998”.

SEC. 209. MISSING PARTICIPANTS.

(a) IN GENERAL.—Section 4050 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1350) is amended by redesignating subsection (c) as subsection (e) and by inserting after subsection (b) the following new subsections:

“(c) MULTIPLE EMPLOYER PLANS.—The corporation shall prescribe rules similar to the rules in subsection (a) for multiple employer plans covered by this title that terminate under section 4041A.

“(d) PLANS NOT OTHERWISE SUBJECT TO TITLE.—

“(1) TRANSFER TO CORPORATION.—The plan administrator of a plan described in paragraph (4) may elect to transfer a missing participant's benefits to the corporation upon termination of the plan.

“(2) INFORMATION TO THE CORPORATION.—To the extent provided in regulations, the plan administrator of a plan described in paragraph (4) shall, upon termination of the plan, provide the corporation information with respect to benefits of a missing participant if the plan transfers such benefits—

“(A) to the corporation, or

“(B) to an entity other than the corporation or a plan described in paragraph (4)(B)(ii).

“(3) PAYMENT BY THE CORPORATION.—If benefits of a missing participant were transferred to the corporation under paragraph (1), the corporation shall, upon location of the participant or beneficiary, pay to the participant or beneficiary the amount transferred (or the appropriate survivor benefit) either—

“(A) in a single sum (plus interest), or

“(B) in such other form as is specified in regulations of the corporation.

“(4) PLANS DESCRIBED.—A plan is described in this paragraph if—

“(A) the plan is a pension plan (within the meaning of section 3(2))—

“(i) to which the provisions of this section do not apply (without regard to this subsection), and

“(ii) which is not a plan described in paragraphs (2) through (11) of section 4021(b), and

“(B) at the time the assets are to be distributed upon termination, the plan—

“(i) has missing participants, and

“(ii) has not provided for the transfer of assets to pay the benefits of all missing participants to another pension plan (within the meaning of section 3(2)).

“(5) CERTAIN PROVISIONS NOT TO APPLY.—Subsections (a)(1) and (a)(3) shall not apply to a plan described in paragraph (4).”.

(b) CONFORMING AMENDMENTS.—Section 206(f) of such Act (29 U.S.C. 1056(f)) is amended—

(1) by striking “title IV” and inserting “section 4050”; and

(2) by striking “the plan shall provide that,”.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions made after final regulations implementing subsections (c) and (d) of section 4050 of the Employee Retirement Income Security Act of 1974 (as added by subsection (a)), respectively, are prescribed.

SEC. 210. REDUCED PBGC PREMIUM FOR NEW PLANS OF SMALL EMPLOYERS.

(a) IN GENERAL.—Subparagraph (A) of section 4006(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(A)) is amended—

(1) in clause (i), by inserting “other than a new single-employer plan (as defined in subparagraph (F)) maintained by a small employer (as so defined),” after “single-employer plan,”,

(2) in clause (iii), by striking the period at the end and inserting “, and”, and

(3) by adding at the end the following new clause:

“(iv) in the case of a new single-employer plan (as defined in subparagraph (F)) maintained by a small employer (as so defined) for the plan year, \$5 for each individual who is a participant in such plan during the plan year.”.

(b) DEFINITION OF NEW SINGLE-EMPLOYER PLAN.—Section 4006(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)) is amended by adding at the end the following new subparagraph:

“(F)(i) For purposes of this paragraph, a single-employer plan maintained by a contributing sponsor shall be treated as a new single-employer plan for each of its first 5 plan years if, during the 36-month period ending on the date of the adoption of such plan, the sponsor or any member of such sponsor’s controlled group (or any predecessor of either) did not establish or maintain a plan to which this title applies with respect to which benefits were accrued for substantially the same employees as are in the new single-employer plan.

“(ii)(I) For purposes of this paragraph, the term ‘small employer’ means an employer which on the first day of any plan year has, in aggregation with all members of the controlled group of such employer, 100 or fewer employees.

“(II) In the case of a plan maintained by two or more contributing sponsors that are not part of the same controlled group, the employees of all contributing sponsors and controlled groups of such sponsors shall be aggregated for purposes of determining whether any contributing sponsor is a small employer.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plans first effective after December 31, 2002.

SEC. 211. REDUCTION OF ADDITIONAL PBGC PREMIUM FOR NEW AND SMALL PLANS.

(a) NEW PLANS.—Subparagraph (E) of section 4006(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(E)) is amended by adding at the end the following new clause:

“(v) In the case of a new defined benefit plan, the amount determined under clause (ii) for any plan year shall be an amount equal to the product of the amount determined under clause (ii) and the applicable percentage. For purposes of this clause, the term ‘applicable percentage’ means—

“(I) 0 percent, for the first plan year.

“(II) 20 percent, for the second plan year.

“(III) 40 percent, for the third plan year.

“(IV) 60 percent, for the fourth plan year.

“(V) 80 percent, for the fifth plan year.

For purposes of this clause, a defined benefit plan (as defined in section 3(35)) maintained by a contributing sponsor shall be treated as a new defined benefit plan for each of its first 5 plan years if, during the 36-month period ending on the date of the adoption of the plan, the sponsor and each member of any controlled group including the sponsor (or any predecessor of either) did not establish or maintain a plan to which this title applies with respect to which benefits were accrued for substantially the same employees as are in the new plan.”.

(b) SMALL PLANS.—Paragraph (3) of section 4006(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)), as amended by section 210(b), is amended—

(1) by striking “The” in subparagraph (E)(i) and inserting “Except as provided in subparagraph (G), the”, and

(2) by inserting after subparagraph (F) the following new subparagraph:

“(G)(i) In the case of an employer who has 25 or fewer employees on the first day of the plan year, the additional premium determined under subparagraph (E) for each participant shall not exceed \$5 multiplied by the number of participants in the plan as of the close of the preceding plan year.

“(ii) For purposes of clause (i), whether an employer has 25 or fewer employees on the first day of the plan year is determined by taking into consideration all of the employees of all members of the contributing sponsor’s controlled group. In the case of a plan maintained by two or more contributing sponsors, the employees of all contributing sponsors and their controlled groups shall be aggregated for purposes of determining whether the 25-or-fewer-employees limitation has been satisfied.”.

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply to plans first effective after December 31, 2002.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to plan years beginning after December 31, 2002.

SEC. 212. AUTHORIZATION FOR PBGC TO PAY INTEREST ON PREMIUM OVERPAYMENT REFUNDS.

(a) IN GENERAL.—Section 4007(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1307(b)) is amended—

(1) by striking “(b)” and inserting “(b)(1)”, and

(2) by inserting at the end the following new paragraph:

“(2) The corporation is authorized to pay, subject to regulations prescribed by the corporation, interest on the amount of any overpayment of premium refunded to a designated payor. Interest under this paragraph shall be calculated at the same rate and in the same manner as interest is calculated for underpayments under paragraph (1).”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to interest accruing for periods beginning not earlier than the date of the enactment of this Act.

SEC. 213. SUBSTANTIAL OWNER BENEFITS IN TERMINATED PLANS.

(a) MODIFICATION OF PHASE-IN OF GUARANTEE.—Section 4022(b)(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1322(b)(5)) is amended to read as follows:

“(5)(A) For purposes of this paragraph, the term ‘majority owner’ means an individual who, at any time during the 60-month period ending on the date the determination is being made—

“(i) owns the entire interest in an unincorporated trade or business,

“(ii) in the case of a partnership, is a partner who owns, directly or indirectly, 50 percent or more of either the capital interest or the profits interest in such partnership, or

“(iii) in the case of a corporation, owns, directly or indirectly, 50 percent or more in value of either the voting stock of that corporation or all the stock of that corporation. For purposes of clause (iii), the constructive ownership rules of section 1563(e) of the Internal Revenue Code of 1986 shall apply (determined without regard to section 1563(e)(3)(C)).

“(B) In the case of a participant who is a majority owner, the amount of benefits guaranteed under this section shall equal the product of—

“(i) a fraction (not to exceed 1) the numerator of which is the number of years from the later of the effective date or the adoption date of the plan to the termination date, and the denominator of which is 10, and

“(ii) the amount of benefits that would be guaranteed under this section if the participant were not a majority owner.”.

(b) MODIFICATION OF ALLOCATION OF ASSETS.—

(1) Section 4044(a)(4)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1344(a)(4)(B)) is amended by striking “section 4022(b)(5)” and inserting “section 4022(b)(5)(B)”.

(2) Section 4044(b) of such Act (29 U.S.C. 1344(b)) is amended—

(A) by striking “(5)” in paragraph (2) and inserting “(4), (5)”, and

(B) by redesignating paragraphs (3) through (6) as paragraphs (4) through (7), respectively, and by inserting after paragraph (2) the following new paragraph:

“(3) If assets available for allocation under paragraph (4) of subsection (a) are insufficient to satisfy in full the benefits of all individuals who are described in that paragraph, the assets shall be allocated first to benefits described in subparagraph (A) of that paragraph. Any remaining assets shall then be allocated to benefits described in subparagraph (B) of that paragraph. If assets allocated to such subparagraph (B) are insufficient to satisfy in full the benefits described in that subparagraph, the assets shall be allocated pro rata among individuals on the basis of the present value (as of the termination date) of their respective benefits described in that subparagraph.”.

(c) CONFORMING AMENDMENTS.—

(1) Section 4021 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1321) is amended—

(A) in subsection (b)(9), by striking “as defined in section 4022(b)(6)”, and

(B) by adding at the end the following new subsection:

“(d) For purposes of subsection (b)(9), the term ‘substantial owner’ means an individual who, at any time during the 60-month period ending on the date the determination is being made—

“(1) owns the entire interest in an unincorporated trade or business,

“(2) in the case of a partnership, is a partner who owns, directly or indirectly, more than 10 percent of either the capital interest or the profits interest in such partnership, or

“(3) in the case of a corporation, owns, directly or indirectly, more than 10 percent in value of either the voting stock of that corporation or all the stock of that corporation. For purposes of paragraph (3), the constructive ownership rules of section 1563(e) of the Internal Revenue Code of 1986 shall apply (determined without regard to section 1563(e)(3)(C)).”.

(2) Section 4043(c)(7) of such Act (29 U.S.C. 1343(c)(7)) is amended by striking “section 4022(b)(6)” and inserting “section 4021(d)”.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to plan terminations—

(A) under section 4041(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1341(c)) with respect to which notices of intent to terminate are provided under section 4041(a)(2) of such Act (29 U.S.C. 1341(a)(2)) after December 31, 2002, and

(B) under section 4042 of such Act (29 U.S.C. 1342) with respect to which proceedings are instituted by the corporation after such date.

(2) CONFORMING AMENDMENTS.—The amendments made by subsection (c) shall take effect on January 1, 2003.

SEC. 214. BENEFIT SUSPENSION NOTICE.

(a) MODIFICATION OF REGULATION.—The Secretary of Labor shall modify the regulation under subparagraph (B) of section 203(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(a)(3)(B)) to provide that the notification required by such regulation in connection with any suspension of benefits described in such subparagraph—

(1) in the case of an employee who returns to service described in section 203(a)(3)(B)(i) or (ii) of such Act after commencement of payment of benefits under the plan, shall be made during the first calendar month or the first 4 or 5-week payroll period ending in a calendar month in which the plan withholds payments, and

(2) in the case of any employee who is not described in paragraph (1)—

(A) may be included in the summary plan description for the plan furnished in accordance with section 104(b) of such Act (29 U.S.C. 1024(b)), rather than in a separate notice, and

(B) need not include a copy of the relevant plan provisions.

(b) EFFECTIVE DATE.—The modification made under this section shall apply to plan years beginning after December 31, 2002.

SEC. 215. STUDIES.

(a) MODEL SMALL EMPLOYER GROUP PLANS STUDY.—As soon as practicable after the date of the enactment of this Act, the Secretary of Labor, in consultation with the Secretary of the Treasury, shall conduct a study to determine—

(1) the most appropriate form or forms of—

(A) employee pension benefit plans which would—

(i) be simple in form and easily maintained by multiple small employers, and

(ii) provide for ready portability of benefits for all participants and beneficiaries,

(B) alternative arrangements providing comparable benefits which may be established by employee or employer associations, and

(C) alternative arrangements providing comparable benefits to which employees may contribute in a manner independent of employer sponsorship, and

(2) appropriate methods and strategies for making pension plan coverage described in paragraph (1) more widely available to American workers.

(b) MATTERS TO BE CONSIDERED.—In conducting the study under subsection (a), the Secretary of Labor shall consider the adequacy and availability of existing employee pension benefit plans and the extent to which existing models may be modified to be more accessible to both employees and employers.

(c) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Labor shall report the results of the study under subsection (a), together with the Secretary's recommendations, to the Committee on Education and the Workforce and the Committee on Ways and Means of the House of Representatives and the Committee on Health, Education, Labor, and Pensions and the Committee on Finance of the Senate. Such recommendations shall include one or more model plans described in subsection (a)(1)(A) and model alternative arrangements described in subsections (a)(1)(B) and (a)(1)(C) which may serve as the basis for appropriate administrative or legislative action.

(d) STUDY ON EFFECT OF LEGISLATION.—Not later than 5 years after the date of the enactment of this Act, the Secretary of Labor shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health,

Education, Labor, and Pensions of the Senate a report on the effect of the provisions of this Act and title VI of the Economic Growth and Tax Relief Reconciliation Act of 2001 on pension plan coverage, including any change in—

(1) the extent of pension plan coverage for low and middle-income workers,

(2) the levels of pension plan benefits generally,

(3) the quality of pension plan coverage generally,

(4) workers' access to and participation in pension plans, and

(5) retirement security.

SEC. 216. INTEREST RATE RANGE FOR ADDITIONAL FUNDING REQUIREMENTS.

(a) IN GENERAL.—Subclause (III) of section 412(l)(7)(C)(i) of the Internal Revenue Code of 1986 is amended—

(1) by striking “2002 or 2003” in the text and inserting “2001, 2002, or 2003”, and

(2) by striking “2002 AND 2003” in the heading and inserting “2001, 2002, AND 2003”.

(b) SPECIAL RULE.—Subclause (III) of section 302(d)(7)(C)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(d)(7)(C)(i)) is amended—

(1) by striking “2002 or 2003” in the text and inserting “2001, 2002, or 2003”, and

(2) by striking “2002 AND 2003” in the heading and inserting “2001, 2002, AND 2003”.

(c) PBGC.—Subclause (IV) of section 4006(a)(3)(E)(iii) of such Act (29 U.S.C. 1306(a)(3)(E)(iii)) is amended to read as follows—

“(IV) In the case of plan years beginning after December 31, 2001, and before January 1, 2004, subclause (II) shall be applied by substituting ‘100 percent’ for ‘85 percent’ and by substituting ‘115 percent’ for ‘100 percent’. Subclause (III) shall be applied for such years without regard to the preceding sentence. Any reference to this clause or this subparagraph by any other sections or subsections (other than sections 4005, 4010, 4011 and 4043) shall be treated as a reference to this clause or this subparagraph without regard to this subclause.”.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 405 of the Job Creation and Worker Assistance Act of 2002.

SEC. 217. PROVISIONS RELATING TO PLAN AMENDMENTS.

(a) IN GENERAL.—If this section applies to any plan or contract amendment—

(1) such plan or contract shall be treated as being operated in accordance with the terms of the plan during the period described in subsection (b)(2)(A), and

(2) except as provided by the Secretary of the Treasury, such plan shall not fail to meet the requirements of section 411(d)(6) of the Internal Revenue Code of 1986 and section 204(g) of the Employee Retirement Income Security Act of 1974 by reason of such amendment.

(b) AMENDMENTS TO WHICH SECTION APPLIES.—

(1) IN GENERAL.—This section shall apply to any amendment to any plan or annuity contract which is made—

(A) pursuant to any amendment made by this title or title VI of the Economic Growth and Tax Relief Reconciliation Act of 2001, or pursuant to any regulation issued by the Secretary of the Treasury or the Secretary of Labor under this title or such title VI, and

(B) on or before the last day of the first plan year beginning on or after January 1, 2005.

In the case of a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986), this paragraph shall be applied by substituting “2007” for “2005”.

(2) CONDITIONS.—This section shall not apply to any amendment unless—

(A) during the period—

(i) beginning on the date the legislative or regulatory amendment described in paragraph (1)(A) takes effect (or in the case of a plan or contract amendment not required by such legislative or regulatory amendment, the effective date specified by the plan), and

(ii) ending on the date described in paragraph (1)(B) (or, if earlier, the date the plan or contract amendment is adopted), the plan or contract is operated as if such plan or contract amendment were in effect; and

(B) such plan or contract amendment applies retroactively for such period.

TITLE III—STOCK OPTIONS**SEC. 301. EXCLUSION OF INCENTIVE STOCK OPTIONS AND EMPLOYEE STOCK PURCHASE PLAN STOCK OPTIONS FROM WAGES.**

(a) EXCLUSION FROM EMPLOYMENT TAXES.—

(1) SOCIAL SECURITY TAXES.—

(A) Section 3121(a) of the Internal Revenue Code of 1986 (relating to definition of wages) is amended by striking “or” at the end of paragraph (20), by striking the period at the end of paragraph (21) and inserting “; or”, and by inserting after paragraph (21) the following new paragraph:

“(22) remuneration on account of—

“(A) a transfer of a share of stock to any individual pursuant to an exercise of an incentive stock option (as defined in section 422(b)) or under an employee stock purchase plan (as defined in section 423(b)), or

“(B) any disposition by the individual of such stock.”.

(B) Section 209(a) of the Social Security Act is amended by striking “or” at the end of paragraph (17), by striking the period at the end of paragraph (18) and inserting “; or”, and by inserting after paragraph (18) the following new paragraph:

“(19) Remuneration on account of—

“(A) a transfer of a share of stock to any individual pursuant to an exercise of an incentive stock option (as defined in section 422(b) of the Internal Revenue Code of 1986) or under an employee stock purchase plan (as defined in section 423(b) of such Code), or

“(B) any disposition by the individual of such stock.”.

(2) RAILROAD RETIREMENT TAXES.—Subsection (e) of section 3231 of such Code is amended by adding at the end the following new paragraph:

“(11) QUALIFIED STOCK OPTIONS.—The term ‘compensation’ shall not include any remuneration on account of—

“(A) a transfer of a share of stock to any individual pursuant to an exercise of an incentive stock option (as defined in section 422(b)) or under an employee stock purchase plan (as defined in section 423(b)), or

“(B) any disposition by the individual of such stock.”.

(3) UNEMPLOYMENT TAXES.—Section 3306(b) of such Code (relating to definition of wages) is amended by striking “or” at the end of paragraph (16), by striking the period at the end of paragraph (17) and inserting “; or”, and by inserting after paragraph (17) the following new paragraph:

“(18) remuneration on account of—

“(A) a transfer of a share of stock to any individual pursuant to an exercise of an incentive stock option (as defined in section 422(b)) or under an employee stock purchase plan (as defined in section 423(b)), or

“(B) any disposition by the individual of such stock.”.

(b) WAGE WITHHOLDING NOT REQUIRED ON DISQUALIFYING DISPOSITIONS.—Section 421(b) of such Code (relating to effect of disqualifying dispositions) is amended by adding at

the end the following new sentence: "No amount shall be required to be deducted and withheld under chapter 24 with respect to any increase in income attributable to a disposition described in the preceding sentence.".

(C) WAGE WITHHOLDING NOT REQUIRED ON COMPENSATION WHERE OPTION PRICE IS BETWEEN 85 PERCENT AND 100 PERCENT OF VALUE OF STOCK.—Section 423(c) of such Code (relating to special rule where option price is between 85 percent and 100 percent of value of stock) is amended by adding at the end the following new sentence: "No amount shall be required to be deducted and withheld under chapter 24 with respect to any amount treated as compensation under this subsection.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to stock acquired pursuant to options exercised after the date of the enactment of this Act.

TITLE IV—SOCIAL SECURITY AND MEDICARE HELD HARMLESS

SEC. 401. PROTECTION OF SOCIAL SECURITY AND MEDICARE.

The amounts transferred to any trust fund under the Social Security Act shall be determined as if this Act had not been enacted.

The SPEAKER pro tempore. After 2 hours of debate on the bill, as amended, it shall be in order to consider a further amendment printed in part B of the report, if offered by the gentleman from California (Mr. GEORGE MILLER), or the gentleman from New York (Mr. RANGEL), or a designee, which shall be considered read, and shall be debatable for 1 hour, equally divided and controlled by the proponent and an opponent.

The gentleman from Ohio (Mr. BOEHNER), the gentleman from California (Mr. GEORGE MILLER), the gentleman from California (Mr. THOMAS), and the gentleman from New York (Mr. RANGEL) each will control 30 minutes of debate on the bill.

The Chair recognizes the gentleman from California (Mr. THOMAS) for 30 minutes.

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

There has been a quiet revolution going on in the United States, and it was so quiet that a lot of people did not notice. One of the fundamental tenets of Marxism was that there was a separation between those who own the means of production and those who labored at that production; as Marx said in the Communist Manifesto, the capitalists and the proletariat. And there was a belief, still somewhat attempted to be carried on by some folks, that there is a significant and fundamental class difference, an economic difference, which produces a cultural difference between "classes," the captains of industry, the big corporate folk and the workers that to a certain extent, this political argument is perpetuated today.

The quiet revolution that I am talking about is the change that has occurred over the last half century, speeding up significantly in the last third of the 20th century, and really culminating in part for why we are on the floor today; and that is, there is becoming less and less of a distinction be-

tween workers and owners. As a matter of fact, based upon legislation in the 1970s, more and more companies are being owned by the workers.

If my colleagues do not think that shows a fundamental flaw in Marxism and a significant and historic modification of capitalism, talk to any worker who has a 401(k), who owns shares in the stock market. And, frankly, that is becoming more and more your everyday American because, at the same time, the concept that one was supposed to go to work for a company and be employed for 20 years, 30 years, a lifetime, and that if they committed themselves to that company, they were rewarded by a pension or a decent retirement payment, exemplified, for example, a gold watch for loyalty.

Today, not only are individuals working a number of different jobs in their lifetime, they wind up oftentimes with several different careers in their lifetime. And what is most remarkable about being on the floor today is that all of this occurred without a significant or heavy hand of government trying to make it happen. It just kind of occurred. There was an enlightenment that management ought to allow workers to participate as owners, and workers thought it might be a good idea to get a piece of the action.

Frankly, since it developed to a very great extent below the radar screen and it was not going to be focused on until there were some problems that occurred, and obviously Enron as a focal point could be described as a problem, we are here today to make modest adjustments to a system that needs to continue to evolve largely in the private sector, not controlled or dictated to by government.

□ 1215

However, in the chairman's opinion, government ought to watch very carefully what is occurring in this area because I believe there are a number of successful models that can be examined to help us in our dilemma of one of the key safety nets, the entitlement of Social Security, where over the next several years we are going to have to make several decisions about how we modify the Social Security system.

It is, I think, significant that we are here today to put into place modest, but appropriate, changes in that structure in which workers have become owners, part or whole.

Mr. Speaker, I yield to the gentleman from Arizona (Mr. SHADEGG) for the purpose of a colloquy pointing to the fact that there is a difference between certain types of employee-owned companies, commonly known because of the law, as ESOPs.

Mr. SHADEGG. Mr. Speaker, will the gentleman yield?

Mr. THOMAS. I yield to the gentleman from Arizona.

Mr. SHADEGG. Mr. Speaker, first I would like to clarify that the diversification requirements in the legislation do not apply to privately owned

corporations, but only to those corporations whose securities are tradeable or traded on an established securities market.

Mr. THOMAS. Mr. Speaker, the gentleman is correct. The diversification rules exempt privately held companies. Only public companies are subject to the rules.

Mr. SHADEGG. Mr. Speaker, secondly, a company may continue to make contributions to such an employee stock ownership plan, an ESOP, for purposes of meeting the safe harbor provisions of the nondiscrimination test established by section 401(k), and that such contributions would not be subject to the diversification requirement established by this legislation.

Mr. THOMAS. Mr. Speaker, the gentleman is correct. Employer contributions used to satisfy the 401(k) safe harbor test will not be subject to the diversification rules, as long as the contributions are made to a so-called pure ESOP, which is defined as an ESOP which holds no employee contributions, no employer-matching contributions, and no employer contributions used to meet the nondiscrimination test.

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

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

Mr. Speaker, first, I thank the distinguished chairman for that eloquent essay against communism. It is refreshing to know that this bill is trying to minimize the class differences that we have in this Nation between the captains of industry and employees, that this gap is being closed.

Most of us thought this was a question about the Enron scandal. Most of us thought, like the President, that we ought to repair the damages that have been made to see that it does not happen to employees in the future. Most of us thought that this was a tax issue since the 401(k)s, that so many employees, rank and file employees, got hurt by with Enron, that we on the Committee on Ways and Means would be providing the leadership for the House in order to repair the code so that these things would not happen again.

Instead, the debate is led off by the Committee on Education and the Workforce by the gentleman from Ohio (Mr. BOEHNER). It is good to know that things are getting better and the gap is getting closed, but to say that we do not know what is in this bill is similar to a statement we heard yesterday, nobody knew what was in the taxpayer bill.

When the day is over, the vote is going to be which side were Members on. Were Members with the executives that managed to protect their pensions and not pay taxes on it; or were Members with employees that, as the President said, as the sailors of this ship, they should have the same rights as the captains do?

Here we find that the captains of the Enron ship jumped ship and took the lifeboats with them, took the lifesavers

with them, and employees sunk and lost their life savings. We want to know what we do about it today. Of course the Member says modest adjustments. That is code words for we do nothing about it today.

Some of us on the committee voted for it because we were under the impression that we could work out our differences and really put some teeth in this, and to try in some way to bring to the floor a bipartisan bill so the American people would believe as it relates to pension, there was some equity, some parity between how we treat executives and how we treat the rank and file.

We see here that the issue is not communism versus capitalism, it is campaign contributions versus doing the right thing.

I hope as the question was put to us yesterday, whether or not we should maintain loopholes for people to make campaign contributions that we thought we had closed, or whether or not people want to do the right thing, that we do not have people walking in lockstep to party leaders, but we have Members doing the right thing because that is what is expected of us. The closer we get to election, the more honestly we will be seeing our votes.

Mr. Speaker, I ask Members to listen not to the virtues of capitalism that we all really treasure, support, adore and want to maintain, and not in attacking communism because I think we have won that argument, but which side are Members on: the highly paid executives or protecting the rank-and-file employees.

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

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

Mr. Speaker, I find it ironic that the gentleman closed his statement right along the same class lines that I said have been blurred significantly. I was not talking about communism; I was talking about Marxism.

The gentleman's reference that the captains of industry get to be treated differently than their employees is one of the reasons we are here today. If the gentleman would turn to page 75 of the bill, the gentleman would find section 108, which clearly prohibits the so-called captains from participating in activities that the employees are denied. Exactly the point that the gentleman makes is contained in the legislation.

In addition to that, the reason we are here today with a shared committee responsibility is because in 1974 Congress passed, and the President signed, the Employer Retirement Income Security Act, known as ERISA. The jurisdiction of the Committee on Ways and Means is to the Tax Code. The jurisdiction of the Committee on Education and the Workforce is to that portion of the law known as ERISA. As is oftentimes the case, there are two different sections of the law.

Mr. Speaker, if the gentleman would wish that the Committee on Ways and

Means also controlled the ERISA portion of the code, the Chair would reach out to the gentleman, and we could try to figure out a way to put that under our jurisdiction as well. But at least temporarily, it is under the jurisdiction of the Committee on Education and the Workforce. They have to be accommodated since that is their jurisdiction.

It was a pleasure to work with the chairman of that committee, the gentleman from Ohio (Mr. BOEHNER), in putting together this package.

Mr. Speaker, I yield 2½ minutes to the gentleman from New York (Mr. HOUGHTON), who is someone who understands the relationship between owners and workers and the change that has occurred over time in that relationship, the chairman of the Subcommittee on Oversight of the Committee on Ways and Means.

Mr. HOUGHTON. Mr. Speaker, I would like to support the pension improvements in this legislation, and I want to talk briefly about three issues.

First of all, payroll taxes on stock options: for over 30 years, since 1971, the IRS has taken the position that employee purchases of company stock and stock options do not give rise to employment tax obligations. Now the IRS is totally reversing its position, and employees I am sure will consider this a tax increase.

What this bill does is to preserve that 30-year policy which we have been operating under for so many years. In addition to higher taxes, several adverse consequences, I feel, are likely to flow from the failure to address the problem.

First of all, employee stock purchases will be depressed, reversing the trend in recent years toward greater ownership. Also, because employment taxes are higher until an employee reaches the maximum Social Security wage base of approximately \$85,000, the change will also tend to harm those earning below the maximum wage base more than those earning above it. For the same reason, it is going to become more expensive for companies to award stock options to the average worker because employers will bear half the burden of employment taxes. By enacting this legislation, we will preserve existing laws on the incentive stock options.

Secondly, some outside the process have criticized other aspects of the bill for creating loopholes. I do not believe that. Democrats have joined Republicans in calling these loopholes reform. I hope they are reforms. What this does is fix mechanical rules that produce irrational results.

The simplification provision that is now criticized merely directs the Department of Treasury and Department of Labor to develop simplified annual reporting requirements for businesses with fewer than 25 employees. I have a feeling that the Democratic substitute, although well intentioned, is likely to have the unintended consequence of

sharply restricting the availability of the 401(k) plans. Right now the 401(k) plans are a critical part of the structure of incentives for individual savings that we have built into our tax codes. These incentives can only be offered to employees if employers participate.

The Enron fraud has taught us the need for diversification to protect a workers' plan. This substitute would impose tough conditions on plan administrators that the best-run companies will have to reevaluate their decision to offer these tax-favored saving plans. They are all voluntary. I do not believe this is what was intended by this particular legislation.

Mr. Speaker, I support the pension improvement plan. I support the security plan, H.R. 3762.

Mr. RANGEL. Mr. Speaker, I ask unanimous consent to yield the balance of my time to the gentleman from California (Mr. STARK) for purposes of control.

The SPEAKER pro tempore (Mr. LATHAM). Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. STARK. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, I appreciate the opportunity to speak, as I am not on either the Committee on Ways and Means or the Committee on Education and the Workforce, but when Enron started to collapse, many people in Houston saw their life savings evaporate before their eyes.

My constituents' hands were tied because Enron executives prevented them from touching the 401(k)s, even though these same executives were able to unload their stock by other means as it continued to spiral down. Innocent employees and investors lost all their investments while the CEO and executives cut their losses with their stock losses and deferred compensation. Congress should be able to stand up to these folks who take free enterprise and abuse it, these corporate insiders who took advantage of their employees' trust.

This legislation, as I look at it, and I know that we have two different committees working on it, does little to help the average rank-and-file worker who could do nothing to prevent what was happening at Enron. This reminds me of a saying from Texas that we can put earrings and lipstick on a pig and call her Monique, but it is still a pig. Even with earrings and lipstick, this bill does not do much to prevent future Enrons.

Mr. Speaker, I do not want to throw out the baby with the bath water, and I agree that we need to continue the efforts for stock options and ESOPs; but somehow we have to send the message by legislation that we will not have what has happened at Enron ever happen again.

The President said he wanted the CEOs treated the same as the workers.

The Democratic substitute does that. It makes sure that executives play on the same field as their workers and investors. If employees are prohibited from selling their stock, executives should be, too, without any special dealings or deferred-compensation ways that they can get to their stock, and that is what the Republican bill that we have today does not do. The majority bill, even with the earrings and lipstick, is still no beauty.

□ 1230

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that the gentleman from Ohio (Mr. PORTMAN) control the remainder of the time on this side.

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

There was no objection.

Mr. PORTMAN. Mr. Speaker, I yield 2 minutes to the gentlewoman from Washington (Ms. DUNN) who has been instrumental in ensuring that we have broad coverage under our 401(k) plans.

Ms. DUNN. Mr. Speaker, today I rise in support of the Pension Security Act of 2002. This bill does have strong bipartisan support in the Committee on Ways and Means and it adheres to the principles outlined by President Bush. Most importantly, it will provide protections for employee-investors without impinging on employers' own abilities to establish, support and have some degree of control over their own retirement plans. Media hype notwithstanding, we cannot allow the unfortunate actions of a few, who will be penalized, to ruin a successful program that has created trillions of dollars in wealth for millions of Americans.

I want to highlight two important changes that are in this bill to protect employees. First, we included sensible diversification requirements for employee investments. We know that one of the principles of retirement security is personal control over a diversified portfolio. Our bill prohibits employers from requiring employees to invest their own money in company stock. Companies would be required to offer at least three investment options to their employees. And employees would also be given advice in plain English about the benefits of diversification of their investments.

Secondly, I want also to mention how we address employee stock purchase plans, or ESPPs. For decades, ESPPs have been exempt from payroll taxes because they were not considered wages. However, a recent IRS ruling overturned this longstanding practice. Our bill reaffirms that ESPPs are exempt. This is an important clarification that protects rank-and-file employees from a huge tax increase. Without this provision, you would have the very ironic situation of a junior programmer at Microsoft being forced to sell stock just to pay the payroll tax. Without this provision, small companies, which have used ESPPs to attract

and to reward young workers, would be discouraged from offering these plans.

Our private retirement system is a great success, Mr. Speaker. It should make us all proud. Let us continue that tradition by passing this very important bill.

Mr. STARK. Mr. Speaker, I yield 4 minutes to the gentleman from Maryland (Mr. CARDIN).

Mr. CARDIN. Mr. Speaker, let me thank my friend from California for yielding me this time.

Mr. Speaker, I am disappointed. I think today we have missed an opportunity to pass legislation on a bipartisan basis that would have gone a long way to helping America's workers. If the Committee on Rules would have allowed the work product of the Committee on Ways and Means to come forward, the gentlewoman from Washington was correct, we passed that by a strong bipartisan vote in our committee, and we would be here today, Democrats and Republicans, urging the passage of that legislation. That was not to be the case.

Instead, the Committee on Rules brought forward the product of the Committee on Education and the Workforce and included some provisions that I believe should not be enacted. Therefore, I find it regrettable that I cannot support this legislation.

Mr. Speaker, there are some very important provisions in the legislation before us that we need to make sure gets enacted into law. There are certain protections for employees to be able to diversify their investment portfolio, to be able to take company stock and to put it into a more diversified portfolio for their retirement. Particularly in these days as we are changing from defined benefit plans to defined contribution plans, those changes are important.

The legislation was basically worked out in a bipartisan way. I thank the gentleman from Ohio (Mr. PORTMAN). The two of us have combined together a lot of pension legislation, including many of the provisions that were included in the Ways and Means bill but unfortunately have gotten clouded in the legislation before us. It includes notice, for example, of blackout periods and that employees should diversify their investment portfolios. It includes tax incentives so that individuals can get tax advice. It includes help for small business that was not included in last year's tax bill because of the rules in the other body. That is the good stuff that is in the bill. That is what was worked out in a bipartisan way. That is what I had hoped would have been before us. That is what I had asked the Committee on Rules to make in order. But that is not the bill before us.

The bill before us includes other provisions, including a restriction on diversification that I do not think is workable, that requires employees to wait 3 years after every new contribution by an employer of company stock

before they can diversify it. How many of us look at our portfolios every year and set up plans for diversification every year? I think that is asking employees to do too much. How many of us can plan how much we are going to have available for retirement if we do not have complete control over our decisions? The legislation before us does not give that to us.

More importantly, the legislation before us opens up certain conflict situations on giving advice by making an exception to the prohibited transaction rules under ERISA. I supported change in that rule. I went to the Committee on Education and the Workforce and tried to work with them on sensible restrictions in opening this up so that the manager of the investment plan would at least be required to offer options and choice to the participants. But that amendment was not adopted. Instead, there is just a blanket exemption to the ERISA statute.

I regret that I will not be able to support a bill that I worked very hard with the gentleman from Ohio (Mr. PORTMAN) to bring forward today. I do hope that as this legislation works its way through the other body and through conference that we will be able to bring back a bipartisan process, one in which the Committee on Ways and Means participated in, and have a bipartisan bill that can enjoy broad support in this body and that we can send to the President and get enacted into law. That is not the legislation before us. I hope we will have that when it returns from the other body.

Mr. PORTMAN. Mr. Speaker, I yield myself 30 seconds.

I would like to thank the gentleman from Maryland (Mr. CARDIN) for the good work he did on this legislation. As he says, the majority of this legislation is the product of the Committee on Ways and Means and the Portman-Cardin legislation.

He indicated that there were two areas he had disagreements: The workability of the 3-year rolling provision, that of course can be done as an option for the company. Second, he talked about his concern about the conflict situation of giving investment advice. We are very close on that one as well. I just want to underline the fact that we are very close in this legislation. I think, in fact, that this legislation is bipartisan still. I assume it will be. I look forward to working with him into the future to addressing those relatively small concerns in a good bill.

Mr. Speaker, I yield 2½ minutes to the gentleman from Arizona (Mr. HAYWORTH).

Mr. HAYWORTH. Mr. Speaker, I thank my colleague from Ohio for yielding me the time, and I appreciate the comments from my good friend from Maryland. If you listened closely, while there were some disagreements as to what is transpiring in the bill that my friend from Ohio addressed, there seems to be more of a concern

about process, and we have joint jurisdiction with the Committee on Education and the Workforce and some of these questions of process can be worked out in the course of the legislation.

But what we do in this bill is address a definite need. This is an example where the House of Representatives responds to a challenge that confronts the American people. It is precisely because of the diversification rights that I would recommend this legislation. Plans would be required to offer at least three investment options other than company stock and to allow employees to change investment options at least quarterly. Employees must have the option of investing their own contributions in any investment option offered by the plan. Employers would be allowed to match in the form of company stock. However, employees would be allowed to sell this stock and diversify into other assets according to a couple of different options, a 3-year service option or a 3-year rolling option.

Another concern addressed by this legislation is that it strikes a balance. Mr. Speaker, many folks in Arizona have come to me about ESOPs and what goes on there, and it is important to note that the new diversification rules would apply only to plans that hold publicly traded employer securities and to plans that are not pure ESOPs. A pure ESOP does not hold any employee contributions, employer matching contributions, or employer contributions used to meet nondiscrimination tests.

As you take a look at this legislation, it actually enlarges and improves access to retirement security. It would make it easier for small businesses to start and maintain pension plans. It will simplify reporting requirements for pension plans with fewer than 25 participants.

If the question is access to pension security, it only makes sense to enlarge the possibilities for small business, and we should really redefine that as essential business since more Americans are employed by small businesses than all the corporations of the United States, we are able to set up a mechanism so that they can actually come up with their own plans, with their own pension programs, and it will provide for discounted insurance premiums that small businesses pay to the Pension Benefit Guaranty Corporation.

On balance, this legislation strikes a balance. It is an appropriate first step. I urge passage of the legislation.

Mr. STARK. Mr. Speaker, I yield myself 4 minutes.

As many speakers who have gone before suggest, this bill points out so clearly the difference between the Republicans and the Democrats. Not only is this bill terribly unfair to the average working person and abundantly generous to rich and high-paid executives and to the insurance industry who are contributing to the authors of

this plan for the munificent tax loopholes it creates, but in structuring the plan in the dead of night, there were provisions put back into the bill in the Committee on Ways and Means which further discriminate against the average worker in the small business.

This is not about creating plans which, of course, is what the Republicans would like to do, to create plans for the rich executives. This is about fairness in coverage. This is how many people are covered by the plan in a fair way.

We have had for many years anti-discrimination laws which this bill attempts to eliminate. These have been a subject of contention time and time again as the Republicans, if you choose to support that philosophy, would give tax loopholes to the very rich and ignore the average working person. This has been the interest of the people selling the plan, selling the investments, selling the insurance or selling the service, is to line the pockets of the rich who, of course, will continue their contributions to the Republican campaigns at the expense of the average working person who will get precious little from these plans.

Why we should continue to think that we can say this helps anybody to retire, it helps a very small percentage of very rich people or small business owners to retire. And who pays for that? The average taxpayer pays for that. We pay for that tax loophole. And the price that we were previously extracting was that that small business owner had to give an equivalent protection to every employee in his or her business. This bill eviscerates that idea.

There is some claptrappy language in here that will turn it over to the Secretary of the Treasury, but if the Secretary of the Treasury does nothing, there will be no requirement for anti-discrimination laws. And guess who will have won? The Republican Party and their rich friends and the people who sell these plans, the investment brokers and the insurance agents who do it. What is worse is that it was brought into the bill in the dead of night without the knowledge of the Democrats on the committee. To me, this is underhanded, it is sneaky, and it is indeed the operating procedure of the Republican Party.

I cannot help but suggest, because our chairman brought up the idea of Marxism, and I guess he used to teach history or something like that at some junior college, and he might remember that it was in a European country in the thirties that the fascist leader of that country enlisted the corporate executives to support a war effort in the fight against Marxism and, in the process, enslaved the workers. This seems to be the pattern that the Republicans in this House are following today, by sneaking through in the dead of night, not telling us the truth about what is in the bill, and harming the average working American to the benefit of the

very rich business owners. That is wrong, that is obscene, that is immoral.

Vote "no" on the bill.

□ 1245

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

Mr. Speaker, that was pretty good theater, and I guess I have to compliment the gentleman for his partisanship, but there was no basis in fact for almost anything he just said.

This was done without the Democrats knowing about it? It is the Portman-Cardin legislation that has been voted five times on the floor of this House. You have voted for it, sir. There was a 36-to-2 vote out of the Committee on Ways and Means. It was in H.R. 10. It was in all the previous legislation that has come before this floor. It was passed by this House by over 400 votes. It has been fully vetted.

The way in which the gentleman described it is, frankly, inaccurate. Let me quote the gentleman: "There is no requirement for any nondiscrimination testing."

Where does that come from? The gentleman from Maryland (Mr. CARDIN) is on the floor here, as is the gentleman from North Dakota (Mr. POMEROY) on the other side of the aisle. They have worked well on a bipartisan basis with us to put forward this legislation over the years. Frankly I am, again, very disappointed that we cannot have a debate on the merits.

Let us talk about the facts. I know the gentleman has a disagreement with some of the facts. I know the gentleman is not for the investment advice part of this bill. The gentleman from Maryland (Mr. CARDIN) made it clear he is not. I respect that.

But I would urge on both sides of the aisle that we try to stick to the facts as we are talking about pension reform, not that we should not on every issue, but this one has been historically bipartisan, and it is so important to the workers of this country, including the 55 million people who now take advantage of defined contribution plans.

It is the 70 million Americans who have no plan, primarily because small businesses do not offer them, that need our help. That is what this relatively modest provision that the gentleman referenced as being "a Republican idea that was brought up in the dark of the night" is all about. It is one that has been supported by Democrats and Republicans alike, it is one that was fully vetted over a 5-year period, it is one that has been the subject of hearings and markups; it is one that will help small businesses to be able to offer plans by giving them just a little relief from the rules, the regulations, the costs and burdens under the pension rules, and it does not, does not, I repeat, eliminate the need for nondiscrimination testing.

Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. WELLER).

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

Mr. WELLER. Mr. Speaker, I rise in support of this legislation, legislation which has so much bipartisan work invested in this legislation, the Pension Security Act of 2002. I commend the gentleman from Ohio (Mr. PORTMAN) and the gentleman from California (Mr. THOMAS) and the gentleman from Ohio (Mr. BOEHNER), who have led this effort to bring this legislation to the floor.

We have all learned over the last several months of some terrible things that occurred in Enron and Global Crossing and how they have impacted the retirement savings of the workers of those companies, and certainly we want to find a solution. We are going to hear the rhetoric of some who are going to choose to seize this as an opportunity for name calling and partisanship and class warfare.

We are also going to see Members of this House who are going to rise up and do the right thing, and that is offer a solution, a solution that does what we want to achieve, and that is to protect workers and to strengthen retirement savings.

That is what this is all about, pension security. That is why I stand in strong support of this legislation.

Let us look at what this bill does for America's workers. It empowers employees. Employee rights and protections are enhanced without further burdensome regulations. The bill also gives employees more control over the investment of their accounts once they own or become fully vested with that money. It also requires employers to notify workers in advance of a blackout so that employees have the same opportunity to make changes before the restrictions come into effect.

I would also note that employees are given the opportunity for investment education, something that many employees have told me they are looking for, because we give them in this legislation the opportunity for investor education and access to professional investment advice, and that is all improved with this bill.

We also help employers, because we want to encourage employers to provide pension benefits, because we want to encourage, particularly smaller employers, to provide retirement savings opportunities for their employees because they are the ones, frankly, that have a harder time doing it because of the regulatory and administrative costs. And this House has worked so hard with the leadership of the gentleman from Ohio (Mr. PORTMAN) and the gentleman from Maryland (Mr. CARDIN) to make it easier for small employers to offer pensions.

This bill also reduces costs and regulatory burdens for employers who voluntarily sponsor pension plans. I would note that thanks to the leadership of the gentleman from New York (Mr. HOUGHTON), this legislation prevents the IRS and the Federal Government

from imposing further taxes on employee stock options. If we do not pass this legislation, workers who have employee stock options may suffer payroll taxes. We do not want that to happen.

This legislation deserves bipartisan support. It would make it easier for small employers to provide retirement savings opportunities for their workers. We empower employees. It is a bipartisan bill and deserves bipartisan support. Let us do the right thing. We have a solution. I urge support.

Mr. STARK. Mr. Speaker, I yield 4¼ minutes to the gentleman from Texas (Mr. DOGGETT).

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

In the aftermath of the Enron-Andersen fiasco, certainly we should be concerned about activity that was lawless. But I believe we here in Congress need to be equally concerned about activity that was lawful, but simply awful, in its impact on American families.

This is a scandal involving the deliberate decisions of policymakers in this House of Representatives to allow and overlook loopholes, shortcuts, back doors, exemptions, and exceptions that riddle our laws, that provide special protection and special opportunities to special interests that devote such energy to lobbying us here in Washington. It works to the detriment of blameless employees at Andersen and Enron and at companies across this country, the blameless participation of retirees and investors and of taxpayers who work hard to contribute to make this the great country that it is.

And for those Enron employees who lost all their life savings, for those taxpayers that are out there completing their tax return and wondering why it was that Enron did not pay a dime in taxes, for all those people across America who are saying "there ought to be a law to do something about this, those folks do not need to look any further than the House Committee on Ways and Means that has responsibility for people paying their taxes and for protecting pensions, to ask why did they not do something about it. Why do they continue to enable and facilitate and encourage companies like Enron to not pay a dime on their taxes, while Americans are working hard to pay for the costs of the security of this country? Why have they been so indifferent to ordinary workers that are concerned about their pension security?

This bill is not about the protection of pensions for hard-working employees; it is about political cover for Members of Congress who have not done very much about these kinds of problems in the past. It is based on the premise of how very little can this Congress do and still go out with a straight face and say they have done something about this problem.

Let me tell you, if your family's future is dependent upon an employee pension plan, and you are asking what is this Congress doing to protect me, to protect my family, what is this Con-

gress doing to prevent another Enron-type debacle from destroying our retirement security, the answer is practically nothing.

That is not just my assessment, that was the assessment of the American Association of Retired Persons when this bill came out of committee, and I am proud to have voted against it. That was also the assessment of the New York Times on the front page yesterday—serious concerns that have not been answered by supporters of this bill.

In fact, a former Treasury official said the bill opens the door to discrimination between executive and lower-paid workers.

While its proponent did not have time to take care of ordinary folks, they could certainly provide new favors for highly-paid workers.

If management tells you to buy more company stock while they are selling theirs, does management have to tell even the pension plan that it made these sales? No, not under this bill. If management continues to stuff your retirement plan with company stock, is that illegal? Not only is it lawful, they give a tax break to the company if they do that. And they tell us a company can give some advice to people: "We will let Jeff Skilling go out and hire a consultant to advise people to sell their Enron stock." If you believe that, I am sure the Brooklyn Bridge is available for you.

A company under this bill can continue to encourage employee contributions of company stock and hire an advisor to give advice limited to other investment issues. It is more conflicted interests atop the very kind of conflicted interests we have had in the past.

I am so pleased that the gentleman from California (Chairman THOMAS) brought up Marx, because I am a real fan of their movies. I can tell you that what this bill does in the way of pension protection for American families is just about as much as if we turned the job over to Groucho, Harpo and Chico.

Mr. PORTMAN. Mr. Speaker, I yield myself 1½ minutes.

Mr. Speaker, the gentleman said that there is a New York Times article that has not been responded to. We have spent a good part of today responding to it and its inaccuracies.

Just to do it once more, because the gentleman said we had not responded, the provision we are talking about is to be able to use a facts-and-circumstances test at the Department of Treasury when a plan is fair on its face. It is entirely within the discretion of the Department of Treasury to determine the procedures for that. It is entirely within their discretion to say even though your plan is fair, even though it treats everybody the same, even though you have a uniform benefit all the way through, still you do not meet the test.

There are circumstances where a plan is perfectly fair. In fact, you could

have a uniform benefit for every level of paid worker in the plan, but because one of the workers at the middle or higher level came on to the plan at an earlier age, it might not meet the specific mathematical tests that the Treasury Department uses.

There needs to be some kind of test, but tests are just that; they are mathematical, they are specific. Sometimes they do not work to determine whether something is fair or not. Should there not be some safety valve? The junior senator from New York thinks there should. It is in the Grassley bill that she has cosponsored. It has passed this House five times, by votes of over 400 votes it has passed this House. It is something that has been totally bipartisan from the start. This is nothing new.

I would just like to be clear, finally, that the legislation before us does address problems that have arisen because of what happened at Enron, but it affects all folks who are in defined contribution plans in this country. It does make significant steps forward.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LATHAM). Members are reminded that improper references to members of the other body are to be avoided.

Mr. PORTMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. BRADY).

Mr. BRADY of Texas. Mr. Speaker, I am a Houston area Congressman. Many of the Enron employees are my neighbors. They are good people, and they have lost their jobs and they have lost their retirement through no fault of their own. They do not have time to sit around thinking of clever movie titles to stick into their speeches. They are too busy finding jobs and trying to rebuild their homes and their lives.

I am ashamed of those in Congress who continue to try to score political points off the misery of these workers from Enron. The fact of the matter is the biggest threat to future retirement plans is not the prospect of future Enrons. The biggest threat is political grandstanding here in Washington that destroys companies' incentives to share their wealth with the workers who helped achieve it.

The fact is these are thoughtful safeguards today to give workers more control over their retirement plans, while encouraging companies to help them build up their nest egg for retirement.

This legislation does not satisfy the business community, it does not satisfy all the workers. It certainly does not satisfy the lawyers who would like to sue everybody. But when combined with needed accounting reforms, stiffer penalties for corporate fraud and a healthy dose of buyer beware for anyone looking to invest in stock, this should help to prevent the Enrons of the future, and this is a sound balance that we need.

Mr. STARK. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. PASCRELL).

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

Mr. PASCRELL. Mr. Speaker, I have heard it all today. I really have. When my friend from Arizona says that what we need is a balanced approach, at this time of the game? You tell that to Wayne and Kathy Stevens, who in their 401(k) had \$720,000 in savings wiped away.

□ 1300

You tell them what they need is a balanced approach. We are beyond a balanced approach. Besides someone going to jail, those people need relief; and they are not getting it in this legislation. My colleagues may think that is theatrics. You tell that to them, that couple out in Washington State.

This legislation includes no bona fide structural changes that will create protection. It does not require equal representation of employers and employees on the 401(k) plan management boards. It does not create equity between the claims of workers and the executives if the company files for bankruptcy. It does not mandate that independent, unbiased investment advice be provided to rank-and-file employees. In other words, this bill is at worst, a placebo; at best, a Band-Aid on a deep wound.

For these reasons and for what the bill does not do, I urge my colleagues to vote against the Republican bill and for the Democratic substitute. We know who brought you to the dance; but you do not have to keep on saying yes, yes, yes.

Our substitute levels the playing field. It gives rank-and-file employees the same pension protection as the executives. For us to ask anything less, we will not do a service to all Americans, just a few.

The way I see it is certain assets of the company that I have invested in, if I am part of the pension plan, are the property of the employees.

In conclusion, Mr. Speaker, I think our substitute does a better job in trying to address the problem.

Mr. STARK. Mr. Speaker, I am happy to yield 3 minutes to the gentleman from North Dakota (Mr. POMEROY).

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

The security of retirement programs of America's workers is about as important a thing as I think we are going to tackle. It has been my pleasure to work with people on both sides of the aisle on this issue for many years. I want to commend, in particular, the gentleman from Ohio (Mr. PORTMAN) for the substantive and serious-minded work he has put into this topic. He is truly one of the experts in the Congress, House and Senate, on this issue; and his leadership has been important.

Let us look at where we are today. Only half the people in the workforce today have access to workplace retirement savings. We have absolutely a

collapse in the number of defined benefit plans providing reliable pensions to workers. The plans are not collapsing; they are converting to defined contribution plans, a different arrangement, in my opinion, over the long run, one not likely to serve the worker quite as well. We have 401(k) choices, a bewildering array, facing workers, without having provided them sufficient information to best steer their interests in light of their new responsibilities. And, obviously, as the Enron case has so sadly shown, we have insufficient protections that protect workers from the kind of abuse that occurred by an employer acting in what, I believe, will be very actionable ways in the Enron circumstance.

So what we have before us are two approaches to try and fix some of these issues. Sometimes the choices before us are dumb and dumber. Today, I think they are good and better. I am going to vote for the underlying bill. I am going to vote for the substitute, in any event. I think we are making a step forward with the passage of either one of these choices today.

Let us take a look at, first, the underlying bill. It allows diversification protection that we do not have today. The 3-year rolling average is not as good as the Committee on Ways and Means' 3-year provision, which is a distinct advantage in the underlying substitute; but it is an advantage, and it will protect workers, allow them to be able to put a more healthy investment balance into their retirement funds; the 30-day notice on blackout periods and an absolute guarantee they will have a right to trade and diversify within that period of time. That was in the underlying bill that was obviously tragically not in the Enron circumstance, to the abuse of many of those employees. A big step forward with that one.

A big step forward in my opinion on providing investment advice, much greater availability of investment advice to workers facing these 401(k) choices. I am very pleased that the gentleman from Ohio (Mr. BOEHNER), the chairman of the Committee on Education and the Workforce, incorporated into this draft changes that I proposed that make sure that a fiduciary standard applies in the providing of that advice; and it discloses fees in a clear and uniform way, and that it has all of the advisors providing this advice, subject to administrative penalties in those circumstances where they have a vested interest in the sale.

I believe that this will go a long way in a very secure format to provide them the advice they need.

This is a choice; two good choices. Yes on the substitute is the preferred choice. The other one is good too.

Mr. STARK. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Speaker, what is at stake here today is the faith of the

American people in their economic system and in this Congress. The American dream is work hard, get ahead, give your life to a company, get a secure, decent retirement pension. Well, that dream is being destroyed by corporate executives who are cheating people out of their hard-earned retirement benefits.

As the Nation watched enormous corporate bankruptcies unfold at Enron and Global Crossing, and as the people of my district watched Chapter 11 proceedings at LTV Steel, we see the plot thicken around one major theme. There are two sets of rules. Executives get one set of rules and the employees have to play under a different set of rules. Corporate executives get special treatment, including more investment choices, no lockdown restrictions, generous deferred compensation plans that are not required to be disclosed, guaranteed rates of return on pension investments, and a golden parachute of retention bonuses and other benefits when a company goes under.

Employees, on the other hand, have barriers to information, fewer options, more restrictions on investment, and no guaranteed returns. The most egregious disparity is that during a bankruptcy, executive pension plans are totally protected from creditors, and executives can count on cashing in their entire package. On the other hand, employee protections are not protected from creditors. Employees stand at the end of the line and must wait behind other creditors to claim what rightfully belongs to them for compensation that is already earned. Finally, if employees do get to make a claim, that claim is capped at a mere \$4,650.

At the end of the Enron debacle, Ken Lay still receives \$475,000 each year for the rest of his life and a prepaid \$12 million insurance policy; but the employees' 401(k)s are drained, and they will be lucky if they get their \$4,650 maximum severance pay.

This bill does nothing to protect employee pensions in a bankruptcy. It fails to give equal protection to the employee pension as the law currently provides to executive pensions. I urge a "no" vote on this bill.

Mr. PORTMAN. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. FOLEY), a valued member of the Committee on Ways and Means.

Mr. FOLEY. Mr. Speaker, I thank the gentleman for yielding me this time. Let me commend the gentleman from Ohio (Mr. PORTMAN) for his hard work on this legislation. He has been at this for many, many years; and I salute him.

What this bill says loudly and clearly: if it is good for the brass, it ought to be the same for the middle class. We are taking care of employees; we are defining benefits; we are giving investment advice; we are providing advanced notice of blackouts; we are giving diversification; we are taking off, if you will, the corporate handcuffs that have locked many employees in their

employee stock option plans. It improves access to retirement planning services so the average line worker, or the CEO, can take advantage of up-to-date, latest investment advice.

I am encouraged by the action of this House, and I applaud the leadership on this issue. There is no question that Americans need security and safety in their pensions. This is a fantastic step in that direction. I salute all who have participated. I urge my colleagues, as they prepare to leave this Capitol, that when they vote for this bill, they are giving an underlying security to the pensions of all American workers.

Mr. PORTMAN. Could we have a division of time, Mr. Speaker.

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). The gentleman from Ohio (Mr. PORTMAN) has 5½ minutes remaining; the gentleman from California (Mr. STARK) has 4¾ minutes remaining.

Mr. PORTMAN. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. CAMP).

Mr. CAMP. Mr. Speaker, I want to thank the gentleman for yielding me this time; and I also want to commend him on his efforts on not only this bill, but years' long efforts on making sure that retirement security is a reality for all Americans.

This legislation really does address in the right kind of way the problems that we have seen so much in the press lately. Employee rights and protections are enhanced. We do not have burdensome regulations to affect investment and keep people from investing. We will see pension benefit statements; we will see investment education notices. The bill will give employees more control over the investment of their accounts once they own them, or become vested in that money. They will have three investment options to choose from, and that will be required under this bill. There will be an advanced notification to workers if there is a blackout period so that employees have the same opportunity to make changes as anyone else does that is involved in that plan before the restrictions come into effect.

Investor education and access to retirement planning and professional investment advice are improved under this legislation. This bill will reduce the cost of regulatory burdens for employers who voluntarily sponsor these plans.

This clarifies current law treatment by making stock options not subject to payroll tax, and it is a good bill, and I urge its passage.

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentleman from California for yielding and for his leadership.

Mr. Speaker, I had hoped that we could have come to this floor in a bipartisan manner and supported either

the Committee on Ways and Means proposal on this issue, the total Committee on Ways and Means proposal, or the complete Committee on Ways and Means proposal and/or the Miller substitute. Let me share with my colleagues why, Mr. Speaker.

I live with this every day. The 18th Congressional District has Enron in its district. I am hoping for rehabilitation and reconstruction and the opportunity for a new entity to grow and thrive, but I live every day with the heartfelt tragedies of employees who now still are in foreclosure, who cannot have health care, whose pension benefits, along with the retirees, are long gone.

When they ask me what are we doing, they are asking for a comprehensive and inclusive response. They wonder if the hearings of these past months, where there was great drama, whether this Congress had come together in a bipartisan way.

I would say to my colleagues, Mr. Speaker, that I am very sad that as a member of the Committee on the Judiciary, the Committee on Rules did not see fit to establish some parameters to give penalties to the destruction of documents. It answers the concerns of Andersen employees, and it answers the concerns of ex-Enron employees; but it does not answer the concerns that we would never want this to happen again.

Mr. Speaker, I wanted to vote for this legislation today; and I want my constituents to know why I am not going to vote for it, because this pension bill does not answer the concerns. It does not give independent advice that is needed for these employees. It does not give them the opportunity to fully diversify their company stock, and fails to give workers a voice in administering and protecting their retirement savings through employee representation on pension boards; and for the first time since this bill was enacted, the Republican pension bill provides employees with biased and conflicted investment advice.

Mainly, let me share with my colleagues a story that is ongoing. The Creditors Committee refuses to give a legal severance pay to these employees, Mr. Speaker, as I close. Why? Because these are the big guys, and the little guys do not get heard. We need to pass legislation where the little guys will be heard. I ask my colleagues to reject this legislation.

I thank the distinguished gentleman from California for yielding and for his leadership.

Mr. Speaker, I had hoped that we could have come to this floor in a bipartisan manner and supported either the Committee on Ways and Means proposal on this issue, the total Committee on Ways and Means proposal, or the complete Committee on Ways and Means proposal and/or the Miller substitute. Let me share with my colleagues why, Mr. Speaker.

I live with this every day. The 18th Congressional District has Enron in its district. I am hoping for rehabilitation and reconstruction and the opportunity for a new entity to grow

and thrive, but I live every day with the heart-felt tragedies of employees who now have homes in foreclosure, who cannot pay for health care, whose pension benefits, along with the retirees, are long gone.

When they ask me what are we doing, they are asking for a comprehensive and inclusive response. They wonder if the hearings of these past months, where there was great drama, whether this Congress had come together in a bipartisan way to do something effective. This legislation today is not effective.

I would say to my colleagues, Mr. Speaker, that I am very sad that as a member of the Committee on the Judiciary, the Committee on Rules did not see fit to allow an amendment that would establish some parameters and add criminal penalties to the destruction of documents. That would answer the concerns of the Andersen employees, and it answers the concerns of ex-Enron employees; but the legislation today is not the tough reform it should be.

Mr. Speaker, I wanted to vote for this legislation today; and I want my constituents to know why I am not going to vote for it, because this pension bill does nothing serious. It does not give independent advice that is needed for these employees in these investment choices. It does not give them the opportunity to fully diversify their company stock, and fails to give workers a voice in administering and protecting their retirement savings through employee representation on pension boards; and the bill does not give notices to employees if executives are dumping their stock. This bill provides employees with biased and conflicted investment advice.

Mainly, let me share with my colleagues a story that is ongoing regarding ex Enron employers. They hope to fight a Creditors Committee that refuses to give a legal severance pay to these employees, Mr. Speaker, as I close. Why? Because these are the big guys, and the little guys do not get heard. We need to pass legislation where the little guys will be heard. I ask my colleagues to reject this legislation, and fight for and with the little guys!

Mr. PORTMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. SAM JOHNSON), who is chairman of the Subcommittee on Employer-Employee Relations of the Committee on Education and the Workforce, as well as serving on the Committee on Ways and Means.

(Mr. SAM JOHNSON of Texas asked and was given permission to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Mr. Speaker, I hate to tell everybody this, but there is independent advice authorized in this bill; and it is for everybody, not just the bottom, but the top and the bottom.

I thank the gentleman for yielding time to me.

The Pension Security Act contains some important provisions that will modernize pension legislation. The gentleman from California (Mr. THOMAS), the chairman of the Committee on Ways and Means, also included in this bill a very important pension-related provision that will overturn a new IRS position on employee stock purchase plans.

I have received a number of calls, letters, and e-mails from constituents re-

garding the new IRS position that is overturning 30 years of tax policy, that was, the employee stock purchase plans are not subject to payroll tax. The IRS overturned that 1971 policy just recently. Imposing payroll taxes for Social Security and unemployment on employee stock purchase plans is just wrong, just as imposing payroll taxes on contributions to 401(k) plans would be wrong. At least the IRS did not go that far.

I hope the IRS sees we are serious about this matter and they do the right thing and simply make this issue go away. This IRS ruling penalizes hard-working people and is just wrong. Again, I want to thank the gentleman from California (Mr. THOMAS) for his dedication to this issue and for making sure that America's pension plans are safe and secure.

Mr. STARK. Mr. Speaker, I yield myself the balance of our time. I will try and summarize. Admittedly, this bill will encourage more plans.

□ 1315

The best way to encourage plans is to have no restriction on them at all, and then the very rich will have plans, but they will not cover the employees.

Professor Halperin at the Harvard Law School has written and suggested that this really solves a minor problem by creating a loophole through which we could march an elephant, or a donkey, too, perhaps, to be bipartisan in the closing minutes of this debate.

But the fact is that this is a bill written to satisfy rich contributors to the Republican Party, and it gives assistance to major corporations and to owners of small businesses without any regard to protecting the employees who are under them.

And it is couched in some language that will say there is a little bit here and there, but the fact is that we give the Treasury the right to make the decision of whether the plans meet the antidiscrimination rules, and then give the Treasury no direction. So if the Secretary of the Treasury does not act, there are no antidiscrimination rules.

Mr. Speaker, this is a bad bill. It is a bill that is unfair. It is a bill that helps only the very rich and the owners of businesses, but leaves the workers with less protection than they start with now.

I guess that is what we have to expect from a Republican-controlled House. That is what they have been doing at every step of the way.

There is the tax bill, which only gives 90 percent of the benefits to 2 percent of the richest people in this country. That is a Republican operation.

There is a bill that talks about education, but does not fund it. That is a Republican plan.

So one more step in a Republican-controlled House to hammer down the working people and the average person in this country to the benefit of the few rich people, the few extreme right-wing radicals who will support the Re-

publican Party and their blatant, blatant, obsequious bowing to the wealthy and the large corporations in this country.

It is something that should shame them. I do not know what they are going to tell their children some day: I came to Congress and helped the rich, and I destroyed the poor. I destroyed pension plans by supporting Enron. I took a lot of money from Enron, and I destroyed the pension plans of those workers. I denied seniors medical care coverage. I refused to give a pharmaceutical benefit.

What a wonderful way to take their pension money that they are going to get, far better than any workers are going to get, and then sit and tell their children and grandchildren what they did for this country. I hope they enjoy that retirement, because the average working person in this country is not going to enjoy it if he is subject to the rules that are written in this law by the Republican majority in this House.

Vote no on the bill.

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

I am so glad my colleague, the gentleman from California, did not get too partisan there at the end, as he said he would not. I do not know how he could be much more partisan than that.

Again, I think it is a sad day on the floor of the House when we have that kind of rhetoric over legislation that traditionally has been bipartisan, and that in fact is commonsense legislation that helps working people.

I do want to apologize to the gentleman because earlier I said I had thought he had voted for the provision he was talking about. It passed the House 407 to 24. It has passed the House five times, as he knows. But he was not one of the people who voted for that, and I apologize for saying that.

Earlier speakers have said there are no bona fide structural changes in this bill. The gentleman from California (Mr. STARK) has just talked about it in strictly political terms.

Let me tell Members what the bill does. It provides more education, it provides more information, and it provides more choice to workers. That is what it does. All of that leads to more security in retirement.

In terms of education, it says to workers that we are now going to allow them to get pre-tax advice. They can take pre-tax dollars, and go out and get their own advice. I think that is a good thing. There is a bipartisan consensus in the pension world that that is one of the things we need to focus on now is giving better information so they can make informed choices.

It also provides for investment advice the employer can provide to the employee. It also provides for the first time a requirement that employers, as people enter 401(k)s or other retirement plans, send a statement which provides generally-accepted investment principles that say, you ought to diversify. To put all your eggs in one

basket, as in the case of Enron, is a bad idea. That notice is good. We want to do that for the workers.

It provides more information. For the first time ever, we are going to say that if there is a black-out period, that is when they cannot change their stock because that is when we are changing plan managers or plan administrators, they ought to know about that. We provide for a 30-day notice period. It is not in current law. That is an important change. It lets people get out of the stock if they want to.

In terms of choice, right now if you are in a 401(k) plan, your employer can tie you with the employer-matched stock until you retire. At Enron, it was age 50. In an ESOP it could be up to age 55 plus 10 years participation. We say no, it ought to be 3 years. Once you are there 3 years, you ought to be able to make that choice with better education, with better information; to be able to sell that stock you have gotten through an employer match.

That is what this bill does. It has been mischaracterized today. There has been a lot of rhetoric on the floor, but those are the facts. Those are substantial changes from current law. Those are structural changes to the law that are going to give the workers in this country more security in their retirement by giving them better information to make choices, by giving them educational tools, and by giving them choice, and empowering them to make decisions for their own retirement.

The SPEAKER pro tempore (Mr. MILLER of Florida). All time for debate by the Committee on Ways and Means has expired.

Under the rule, the gentleman from Ohio (Mr. BOEHNER) and the gentleman from California (Mr. GEORGE MILLER) each will control 30 minutes of debate.

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

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

Mr. Speaker, late last year, thousands of Americans employed by Enron Corporation watched helplessly as their company collapsed, and their retirement savings were lost with it. Today we are here to restore worker confidence in our Nation's pension system.

Enron workers may be the victims of criminal wrongdoing. We do not know that yet. But we already know they are victims of an outdated Federal pension law. The bill before us today will modernize our Nation's pension law and help promote security, education, and freedom for employees who have worked and saved all of their lives for a safe and secure retirement.

President Bush followed up his State of the Union speech this year by outlining a series of bipartisan reforms that could have made a critical difference for Enron workers who lost their retirement savings. The bipartisan Pension Security Act of 2002 is based on those reform principles.

But let us be very clear: Congress should take action to protect Ameri-

cans' retirement benefits, not endanger them. One of the great strengths of our country is that employees of companies can own stock in their place of business and become part of the corporate ownership. This has allowed workers who stock shelves at Wal-Mart and run the checkout counters at Target, not just the top-level management, allow these other workers to build wealth and significantly enhance their own requirement security.

On a bipartisan basis, we have consistently rejected efforts to place arbitrary caps on a company's stock because Congress should encourage employers to provide matching contributions to their workers, not enact extreme proposals that could jeopardize Americans' retirement security, or spell the death of 401(k) plans altogether.

The bipartisan Pension Security Act takes a balanced approach by expanding worker access to investment advice and including new safeguards to help workers preserve and enhance their own requirement security, such as giving employees new freedoms to diversify their own portfolios.

But it also insists on greater accountability from senior company insiders. We believe it is unfair for workers to be denied the opportunity to sell company stock in their 401(k) accounts during blackout periods, while corporate insiders can sell off their investments and preserve their own savings. Enron insiders got away with this, and we are going to change it.

The Pension Security Act before us gives rank and file workers parity with senior company executives. It also strengthens the notice requirements by requiring companies to give 30 days' notice before a blackout period can begin.

The bill also empowers workers to hold company insiders accountable for abuses by clarifying the company is responsible for worker savings during blackout periods when workers cannot make changes to their 401(k) plans.

Under the Pension Security Act, as under current law, workers can sue company pension officials if they violate their fiduciary duty to act solely in the interest of 401(k) participants.

Enron barred workers from selling company stock until age 50. The bill gives workers new freedoms to sell their company stock within 3 years of receiving it in their 401(k) plan if they get company stock as a match. The benefits of diversification will help workers better plan and save for their own future over the long term.

As we all know it, defined contribution 401(k) type plans have become a primary vehicle for retirement savings. Yet today, the vast majority of American workers receive no investment advice on how best to structure their 401(k) retirement plans, and most cannot afford to pay for it on their own like the company insiders can.

I think it is time to fix outdated Federal rules that discourage employers

from giving workers access to professional investment advice. Like most U.S. companies, Enron did not provide its workers with access to this type of advice. This type of investment guidance would have alerted Enron workers to the need to diversify their accounts, and enable many of them to preserve their retirement nest eggs.

The pension act today that we have changes these outdated Federal rules and encourages employers to provide quality investment advice for their workers. We need to give investors more choices and more information to choose wisely, so that they are better able to navigate their way through the volatile markets and maximize the potential of their hard-earned retirement savings.

Workers must also be fully protected and fully prepared with the tools they need to protect and enhance their retirement security. The Pension Security Act accomplishes these goals.

I want to thank my colleague and the chairman of our subcommittee, the gentleman from Texas (Mr. JOHNSON), who is also a member of the Committee on Ways and Means, for all of the work that he has done at both of our committees to enhance the bills that we have before us, and for the important role he played in the process.

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

Mr. GEORGE MILLER of California. Mr. Speaker, I yield myself 4½ minutes.

Mr. Speaker, the challenge today is whether or not the House of Representatives is prepared to take the lessons of the Enron scandal and use those lessons to apply to greater security of the millions of workers' 401(k) plans across the country.

I would suggest that, in the Republican bill, they have failed to do that. Later, we will offer a Democratic substitute that I believe provides for that greater security, greater control, and greater say by the employees of the assets that belong to them that make up much of their retirement nest egg, so we do not again see, as we saw on Enron, where, because of unethical behavior by corporate executives, where because of greedy behavior by corporate executives, where because of illegal behavior by corporate executives, where because of conflicts of interest by corporate executives, the employees lost everything.

They were never given advance notice. They were never told what was really happening with the corporation. They never had a representative on the pension board which was controlling the assets which 100 percent belonged to the employees.

So we will have an opportunity with that substitute to reject the Republican bill that fails to learn any lessons and provide those greater protections to the workers of this country, and to, in its place, provide for an employee representative, a rank and file employee representative, on the pension

boards so we do not have the situation that we had at Enron and other corporations where members of the pension board who were executive vice presidents have a conflict of interest between their career track and taking care of the beneficiaries, the employees, of the corporation; where they sold their stock but never told the pension beneficiaries that they were selling, or that they thought it was the right thing to do.

We are going to make sure that a rank and file member is a member, so they will have access to the information and they will be able to make determinations for their fellow employees.

We are going to make sure that, after 3 years, they have a complete right to divest, so if they want to diversify their portfolio, if they want to make other decisions about their retirement, they will be free to do it.

□ 1330

In the Republican bill, which you see, it takes 5 years to be fully able to diversify; and every 3 years a new period starts with a new contribution. Three years ago we were in the throws of a bull market, the greatest bull market in modern history. And today, many of those same people have lost much of their retirement because they were locked into it. Three years is a very long time, and a rolling 3-year period is an unacceptable time to lock up people's assets that belong to them so they cannot make a determination about their retirement.

We will also make sure people are treated equally. What we see in Enron and many corporations today is that the retirement plans are ensured for the executives. The retirement plans are guaranteed. The benefits of the 401(k) plans are guaranteed for the executives but not for the employees. So while Enron or other corporations go into bankruptcy, the executives are taken care of. They are taken care of. They walk away with millions. The employee, they have to walk around the corner and stand in line at the bankruptcy courts and hope that there is something left over at the end to see if they can put back together their retirement.

This is really about a fundamental test, about the workers of this Nation who now have got a rude awakening call; and through the tragedy of the workers at Enron that their 401(k) plan that they are being required to lean on more and more for their retirement as vulnerable beyond their expectations, is far more vulnerable than they were led to believe.

Finally, we say yes, investment advice is important; but that advice should not be conflicted.

We have just witnessed this week once again the incredible conflicts in the financial institutions of the country where Merrill Lynch was offering retail advice to people to buy their stocks; and in their e-mail traffic they

were making jokes about the stock. They were raising ethical concerns about offering these stocks for sale because they knew their company was conflicted because it was earning fees as an investment bank from the very clients whose stock it was touting. The investment advice can be offered and it can be helpful, but it cannot be conflicted. The Republican bill allows that investment advice to continue to be conflicted.

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

Mr. BOEHNER. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. SAM JOHNSON), the chairman of the Subcommittee on Employer-Employee Relations of the Committee on Education and the Workforce.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, conflicted advice, we keep hearing about; but there is not any conflicted advice when you have somebody who is recognized as a professional stock or option advisor being concerned.

I have been concerned about many of the pension proposals that have been introduced aimed at protecting Americans from themselves. If history is any guide, Congress should very well protect Americans by simply destroying another successful pension plan. Just look at what happened with the government's over-regulation of the defined benefit pension system. Congress killed those plans with kindness. Let us not repeat those mistakes here.

The bill we are debating here is moving pension reforms cautiously in the right direction, and it is balanced and fair. And I want to commend the gentleman from Ohio (Mr. BOEHNER) and the gentleman from California (Mr. THOMAS) for their hard work in putting together this bill.

As a subcommittee chairman for the Committee on Education and the Workforce, I will focus on those sections of the bill. First, I believe that the rolling 3-year diversification rights for employees who are given company stock as a match in their 401(k) is as important an improvements as any in this proposed legislation. Rolling diversification will preserve employees' ownership ethics as stockholders, but will also permit individuals to diversify into other investments as they see fit.

Next, I am glad that we have clarified the issue of employer liability for stock market fluctuations in a 401(k) plan during a black-out period. We heard a lot of testimony in my subcommittee on this subject. Under the bill reported by the full committee, employers are not responsible for market swings and 401(k) accounts during a black-out period, as long as they provide 30 days' notice in advance and make sure they have a legitimate reason for doing the black out.

The bill today also exempts privately held businesses from being subjected to

the diversification mandates and permits them to use their most recent annual valuation for reporting stock value on 401(k) stock benefit statements.

I probably sat through more hours of hearings on pension benefit issues in this session of Congress than any other Member.

One thing that has been confirmed for me during these hearings is that employees want, need and deserve to receive professional investment advice for their 401(k) plans. This bill does this.

Last month, Mr. Dary Ebricht was a witness before the Committee on Ways and Means; and he told his personal story about the horrors of putting all your eggs in one basket. His personal tragedy could have been prevented if he had received professional investment advice.

He had invested 60 percent of his 401(k) into Enron stock, and then he cashed out his traditional pension plan and bought Enron stock. His defined benefit pension would have paid him roughly \$2,000 per month for the rest of his life. But instead, at the age of 54, the only retirement savings that he has left is the portion of his 401(k) that was diversified.

I asked if he received any professional advice on these decisions. He said he did not. Too many workers lack access to quality investment advice on how to invest their hard-earned savings. Without a doubt, investment advice must become law soon, and I urge Members to vote for this sensible bill which does that. It educates. It provides investments advice. It provides diversification, and it stops big executives from selling their stock during a black-out period.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. ANDREWS).

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

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

Mr. Speaker, we should not replace no advice for workers with bad advice for workers. A few days ago, the attorney general for New York alleged a scheme involving the Merrill Lynch firm that worked like this: one part of the Merrill Lynch house, he alleged, was collecting huge fees for raising capital for Internet companies. The other side of the Merrill Lynch house was giving investment advice to individual clients, telling those individual clients that these Internet companies were the way to go with their money, encouraging them to buy the stock.

This is not what these advisors were telling each other, though, in private e-mails and conversations that the attorney general of New York later found. What they were telling each other was these stocks were a joke; these stocks were a disaster. They were using words that should not be used in mixed company or on the House floor.

This bill wants to take the quality of investment advice the New York attorney general alleged those people were receiving and offer it to the pensioners of this country. No advice should not be replaced with bad advice. The proposal would enshrine into the law, would legalize and legitimize the opportunity of unscrupulous advisors to offer advice which benefits them but not the pensioners to whom the advice is offered.

Employees do need advice. They should be given a full array of choices. They should be made aware, and as the Democratic substitute does, made available as to how to pay for the offering and receipt of independent advice. One of the many flaws in the majority's bill is that it enshrines into law the practice of authorizing and permitting the giving of advice by people who have more to look out for themselves than for the pensioners to whom the advice is offered.

For this and many other reasons the underlying bill should be defeated and the Democratic Miller substitute should be adopted.

Mr. BOEHNER. Mr. Speaker, I yield 3 minutes to my colleague and friend, the gentleman from California (Mr. McKEON).

Mr. McKEON. Mr. Speaker, I rise today in strong support of H.R. 3762, the Pension Security Act; and I thank the gentleman from Ohio (Mr. BOEHNER) and the gentleman from California (Mr. THOMAS) for their hard work on this legislation.

In his State of the Union address, President George W. Bush called on Congress to enact important new safeguards to protect the pensions of millions of American workers. The President called on Congress to move quickly to enact these important reforms so that people who work hard and save for their retirement can have full confidence in our retirement system.

In response to the President's call, Congress immediately took action by holding several hearings on the Enron collapse and its implications for worker retirement security.

Mr. Speaker, we have listened to both workers who have lost or are at risk of losing their retirement savings, and we have listened to employers who voluntarily offer their employees retirement savings plans. After listening to employees and employers, I am pleased to announce that the House is here today to provide new safeguards to help workers preserve and enhance their retirement savings. At the same time, it will still allow employers to have the incentive to provide retirement benefits by refraining from over-precipitous regulation.

The Pension Security Act provides workers with the tools they need to protect their retirement savings. For example, the bill gives workers freedom to diversify their investment options, creates parity between senior corporate executives and rank-and-file workers, clarifies the fiduciary duty of

employers, gives workers better information about their pensions, and enhances worker access to quality investment advice.

Mr. Speaker, H.R. 3762 promotes security, education and freedom for America's workers who have saved all of their lives for a secure retirement. I, therefore, encourage all of my colleagues to join me in strongly supporting it.

I would like to use the balance of my time, Mr. Speaker, to engage with the chairman in a colloquy.

Mr. Speaker, I am very concerned that the diversification provision of the act not be applied in the case of a nonpublicly traded employer with affiliates that may have a limited amount of publicly traded stock outstanding. I do not believe it is the intent of the legislation to have the diversification provision apply in such a situation; and I would ask the distinguished chairman if he would confirm my understanding, and if he would be prepared to work with me to clarify the application of the provision in this respect as this legislation moves.

Mr. BOEHNER. Mr. Speaker, if the gentleman will yield, I would say to my colleague that the act is not intended to apply to diversification provision in the indication of a nonpublicly traded employer with affiliates that have only a limited amount of publicly traded stock outstanding. In this special case, as in others that may arise, I would be pleased to work with my colleague to clarify the application of the provision to reflect this intent and to provide for flexibility that may be necessary to clarify the intent of the legislation.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. TIERNEY).

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

Mr. Speaker, clearly this morning when I spoke on the rule I think I made a point worth repeating here and that is that the majority did not want to have a rule that allowed for individual amendments to be made because that would allow us to set up each aspect of this bill side by side so that the public would have an education and an informed debate on the provisions of the respective bill versus the substitute bill.

Frankly speaking, we have executive accountability in the Democratic substitute. The other bill does not. We have honest, accurate and timely information for employees provided in the substitute. The bill does not have adequate provisions for that.

We provide for unbiased, independent investment advice. The main bill specifically allows for biased, conflicted advice. And there is no reason on the planet why that should ever be the case. There are more than ample resources out there to give unbiased, unconflicted advice. Employers only want to make sure that they are not

held liable when they take the precautions to get proper advisors in there, and all bills can do that. But, simply, even after Enron's Ken Lay was advising people against their interests, when we see news articles as recently as yesterday about Merrill Lynch having a conflict of interest that works against employees' rights right on down the line, this bill still goes up and hails the fact that they are bringing in conflicted advice as if that is the only way they can get advice for employees, and that is simply not the case.

The Democratic substitute takes care of lock-out restrictions and provisions. It lets employees know that if they are locked out, the executives will not be taking advantage of that period of time to their benefit. We give parity of benefits for executives and rank-and-file workers to make sure that everybody is treated fairly. The substitute gives employees control over their retirement savings in much greater degree than does the bill itself. And we have additional protections for workers' pension benefits and a representative of employees on the pension board; and history shows us that when that happens the pension itself does better.

All of these things are lacking and found wanting in the Republican bill itself. That is why we do not have a rule that allows us to bring up individual motions. That is why we are not allowed to stand here and side by side, motion by motion sit here and tell the public why the provisions of the substitute are in fact much better than those provisions of the bill.

□ 1345

Mr. BOEHNER. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Kentucky (Mr. FLETCHER).

Mr. FLETCHER. Mr. Speaker, certainly I think it is very important in light of a lot of the discussion we have heard about Enron about a number of people losing investments over a number of years because of the ill-advice, because of the way Enron reported its financing, and because of the lack of financial advice, I want to say I encourage everyone to support 3762, the Pension Security Act of 2002, because it includes new safeguards and options to help workers preserve and enhance their retirement security.

It insists on greater accountability from companies and senior corporate executives during blackout periods when rank-and-file workers are unable to change investments in their retirement accounts. Workers must be fully protected and fully prepared with the tools they need to protect and enhance their retirement savings.

This bill gives workers freedom to diversify. We have heard it gives employers options to allow sale of company stock after 3 years, the 3-year rolling diversification, or allows workers to sell company stock after 3 years of service, the 3-year diversification cliff.

It prohibits companies from forcing worker investment in company stock.

Opponents of the bill, in the bill that will be offered as an option here, allow actually the employees to self-direct stock and money that actually is not theirs but it may belong in the future to other employees for several years, and I think that is a major problem in consistency that exists with the other proposals here.

This bill creates parity between senior corporate executives and rank-and-file workers, the captain and sailor equity provisions the President has talked about. It prevents senior executives from selling stock during blackout periods because workers are unable to sell stocks in the plans during these periods, and it requires a 30-day notice to workers before the start of a blackout period.

It clarifies that employers are responsible for workers' savings during blackouts. It clarifies that companies have a fiduciary responsibility for workers' savings during a blackout period and does outline situations where they may not be liable for losses in individually directed accounts.

It enhances worker access to quality investment advice. It includes the Retirement Security Advice Act which was passed since the 106th Congress. This provision allows workers access to information and advice about their 401(k) plans, which is greatly needed to ensure the growth we have seen in the last two decades in the defined contribution retirement plans, and as my colleagues will recall, the House passed this legislation in November with a strongly bipartisan bill, but the Senate has failed to act on this bill as of yet.

There are three reasons, I think, or three important differences with the opponent's bill. It does not include investment advice access, which is one of the provisions that would actually have helped Enron employees. It does not rely on education. Rather, it relies on overregulation.

It increases the regulatory red tape that I believe will discourage these types of defined contribution plans.

Lastly, their answer always seems to be, let us sue for some redress. Let us not give the personal freedom, responsibility, and the choice along with the education.

I encourage the passage of 3762.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut (Ms. DeLauro).

Ms. DeLauro. Mr. Speaker, until the collapse of Enron, most Americans felt that their pensions would be there for them when they retired. They felt their savings earned from a lifetime of hard work were protected.

We know better now. We know that our pension rules do not do enough to protect helpless employees from being locked out of their pension plans while their life savings go down the drain. They are not protected from venal executives who took their money and ran.

Two years ago, employees from a Westbrook, Connecticut lighting company learned a similar lesson. The company lost \$2 million from their pension plan. I met with these men and women as we worked together to win back their hard-earned retirement savings, and no one should ever have to go through what those families did.

This Republican bill does virtually nothing to prevent what happened there or at Enron. It fails to allow employees the right to fully diversify their stock. It fails to hold executives who are fiduciaries of the pension plan accountable if they violate the law; and Ken Lay has to be accountable. It continues to allow employers to give the same conflicted financial advice the Republicans tried to push on the American workers last fall before the Enron scandal broke.

We have an opportunity today to do something worthwhile for middle-class Americans, for working men and women in this country. We can tell them today that, yes, we want to protect your pensions because your life's work has to be there for you and your family when you retire. That is what this country is built on. That is what our values are. That is the direction we should go in.

I urge my colleagues to vote against this flawed Republican bill and vote for the Democratic substitute.

Mr. BOEHNER. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Georgia (Mr. Isakson).

Mr. ISAKSON. Mr. Speaker, I thank the distinguished chairman of the Committee on Education and the Workforce for this opportunity.

Pension security has two components. First is protecting the workers' investment but also is preserving that investment to exist at all. As we deal with the ramifications of the immoral and possibly illegal actions of Enron executives, and the loss to their employees, we must be very careful not to react in such a way that we destroy the benefits that most Americans have and the wealth that most have created.

We have talked a lot about Enron, and some people have painted with a pretty broad brush. It has become almost a corporate America statement. The gentleman from California (Mr. George Miller), the distinguished ranking member in our committee, brought us a chart during the debate to raise the question about the disproportionate investment in some 401(k) plans by employees, and a couple of those companies were in Atlanta, Georgia. They were in my district.

As we talk about Enron, we must also remember the Coca-Cola Company and Home Depot. Coca-Cola, with 83 percent of the value of its 401(k) in Coca-Cola stock, and Home Depot is 73 percent, and the risk that the gentleman from California (Mr. Stark) kept criticizing about a half an hour ago happened to be rank-and-file Coca-Cola and rank-and-file Home Depot employees who invested in their company

and became millionaires because of a program that we in this Congress created to create pension security.

Were there bad actors at Enron? Yes. Were there loopholes that need to be closed? Yes. This bill closes those loopholes and brings about responsibility, but we have to be very careful not to throw the baby out with the bath water. We do not need to paint a broad brush that destroys pension security by destroying any incentive for businesses to have pensions and 401(k)s, and we have to be very careful about who we castigate as being rich because, in fact, most of America's wealth has been earned by people who have invested in the sweat and the blood of their businesses and their companies, and they have been treated right.

There are bad actors. The Merrill Lynch example sounds bad, but it does not mean that every advice any professional ever gave was conflicted, nor should we sell the American worker short that they are not capable of giving information and making an intelligent decision.

I commend the President, the chairman of our committee, the chairman of the Committee on Ways and Means, and this Congress for dealing deliberately in closing the loophole that Enron used, holding corporate executives example, allowing people to diversify and allowing people the ability to get unconflicted and accurate advice.

Let us not castigate all of corporate America nor the great benefits that most American workers have gained by this important program. Let us not throw the baby out with the bath water. Let us not adopt a Democratic substitute. Let us adopt the House pension security plan.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia (Mr. Scott) for the purposes of his remarks and entering into a colloquy with the chairman of the committee.

Mr. SCOTT. Mr. Speaker, I rise today to talk about an amendment I offered in committee to conduct a study looking into whether and how insurance could be provided for defined contribution plans. A defined benefit plan is one that defines the benefits one will get at retirement. But a defined contribution plan only speaks to the amount of money one can put into the plan, says nothing about what will be there for someone's retirement.

ERISA provided many protections, including guarantees for defined benefit plans but not for defined contribution plans. The Enron accounts we have heard so much about were defined contribution plans and, therefore, were not guaranteed.

In 1974 when ERISA was enacted, the contribution plans represented an insignificant portion of the plans, but today they constitute almost half of all plans, and because those plans are not insured, those employees have no assurances that their money will actually be there when they retire.

That is why I have been pleased to work with the gentleman from Ohio (Mr. BOEHNER), the chairman of the committee, to include a study which will explore the feasibility of developing an insurance program for defined contribution plans, just as we have for defined benefit plans. The study could recommend, for example, a procedure for private insurance paid for with the premium on assets. To put that potential cost in context, a defined benefit insurance now costs about \$19 a year per account.

The study could also show what kinds of assets could be insured; for example, broadly based index funds, or AAA bonds could be insured, whereas individual stocks or junk bonds may not. The recommendation of the study could protect future employees from losing their retirement funds because stock prices collapse or because the funds in their account have been lost to fraud or theft.

I would like to engage the gentleman from Ohio (Mr. BOEHNER), the chairman of the committee, the primary sponsor of the legislation, in a colloquy for the purposes of clarifying the importance of including the study I have offered on insurance for defined contribution plans, and I would like his comments on the importance in including that study in the bill.

Mr. BOEHNER. Mr. Speaker, will the gentleman yield?

Mr. SCOTT. I yield to the gentleman from Ohio.

Mr. BOEHNER. Mr. Speaker, I want to thank the gentleman for his work on this issue, and I want to state that we, too, believe that his study could be important in informing future public policy positions on this issue. And we regret that there was not enough time to finish out the few remaining details of the study to include his provision in this bill at this time. It is our intention to continue working with him, the other committee of jurisdiction on this issue, and the other body, as this issue goes to conference.

Mr. SCOTT. Mr. Speaker, reclaiming my time, I thank the gentleman for his assurance and look forward to working with him.

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

Mr. GEORGE MILLER of California. Mr. Speaker, can the Chair tell us how much time each side has remaining?

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). The gentleman from California (Mr. GEORGE MILLER) has 16½ minutes remaining, and the gentleman from Ohio (Mr. BOEHNER) has 12 minutes remaining.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. KILDEE), a senior member of the committee.

Mr. KILDEE. Mr. Speaker, I thank the gentleman from California for yielding me the time.

Mr. Speaker, I rise in opposition to H.R. 3762 and in strong support of the

Miller-Rangel substitute. The Enron disaster has illustrated a number of glaring loopholes in our pension system that led to some 15,000 Enron employees losing more than \$1.3 billion from their 401(k) retirement accounts.

Testimony in our committee indicated that the actions of some Enron executives went beyond simple misfeasance to actual malfeasance. The Miller-Rangel substitute ensures that employees will receive honest, accurate information by providing, first, regular benefit statements to workers that would include information regarding the importance of diversification; second, employees will be provided representation on pension boards; third, the substitute also provides for independent, nonconflicted investment advice when company stock is offered as an investment option; and finally, it ensures that executives are not given special treatment over rank-and-file employees.

Mr. Speaker, the collapse of Enron has revealed a number of serious flaws in our pension system. This substitute is a major step forward in addressing those flaws. I urge my colleagues to support the Miller-Rangel substitute.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. SOLIS).

Ms. SOLIS. Mr. Speaker, I thank the gentleman from California for this time.

Mr. Speaker, I rise today in strong opposition to the Republican's misnamed pension protection bill. Rather than prevent future Enrons, the Republican version of their plan only weakens our current pension laws and ignores the very basic reforms that Enron's disaster created for us.

□ 1400

Mr. Speaker, unlike the Republican version of pension reform, our bill would give employees a voice about their pension plans. It requires a employee representative to serve on pension boards. What a great idea.

I am sure that the Enron employees who recently lost their life savings would have loved to have had an opportunity to be at the table to discuss how their pension plan funds would be spent.

Eliminating the disparity between employer and employee pension protection goes way beyond just making up the composition of a board. We must also close the loopholes that provide greater legal protections for executive retirement plans. Because of this loophole, Enron executives not only rescued their money from a sinking ship, but they were also able to shield their luxurious homes and other assets from attacks by general creditors during the bankruptcy. Once again, the hard-working rank-and-file men and women of Enron do not enjoy such protections. Instead, they are vulnerable and left to defend for themselves.

Mr. Speaker, the Democratic substitute eliminates this special treat-

ment for executives and levels the playing field for employees. I urge my colleagues to support the Democratic substitute.

Mr. BOEHNER. Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska (Mr. OSBORNE).

Mr. OSBORNE. Mr. Speaker, I join my colleagues in support of the Pension Security Act. The district that I represent is very rural, small towns and small businesses; and I think it is important to point out that most of the business done in this country is done by small businesses, not by Fortune 500 companies. My father was a small businessman, and my brother currently runs one.

The number one complaint that I hear is that government regulation is so burdensome that many small businesses are damaged or driven out of business entirely. Examples of this would be parts of the Tax Code, ergonomic regulation, health care paperwork, and retirement plan paperwork.

The President's plan addresses the major issues that resulted in the loss of retirement benefits of Enron employees without adding significant regulatory burdens. I think it strikes a good balance. The Pension Security Act allows employees to sell stock within 3 years. One of the major problems at Enron was an employee had to be 55 years of age or more and had to be employed for 10 years or more.

It prohibits senior executives from selling stock during blackout periods, and requires 30 days' notice before declaring blackouts. Neither of these were true in the Enron case.

In addition, the plan requires companies to give regular financial reports on the value of the stock. Also the President's plan includes the Retirement Security Advice Act, which has already passed the House, which provides for increased availability of investment advisers to assist plan participants in making good decisions about their investments. Currently, only 16 percent of businesses provide this advice; and in most cases small businesses do not provide it at all, whereas roughly 75 percent of employees would like such advice. I think this would be very helpful.

So the greatest concern I have is that this well-intentioned substitute, and I am sure it is motivated from good intentions, will provide safeguards that will really eliminate pension plans, and that is absolutely something that helps no one.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. SANCHEZ).

Ms. SANCHEZ. Mr. Speaker, as a former investment banker and a small business owner, I am well aware of the complexities that are involved with pensions and with private investments. I believe that most bankers and business owners try to do a good job for their clients and employees; but many Americans invest too much of their

money in their company's stock, unaware of the type of problems that arise, like the ones that we have seen with Enron.

The Pension Security Act opens a dangerous loophole that allows self-interested people at investment firms to serve as principal financial advisers to employees and to offer conflicted advice. We saw this as an example in the Merrill Lynch case detailed in the Washington Post and other major newspapers.

The Miller-Rangel substitute would offer employees independent financial advice when company stock is offered as an investment option under their pension plan. This is just one example of how the Miller-Rangel substitute offers real reform to our pension system and how the base bill fails to give employees control over their money.

Mr. Speaker, employees have already lost too much. We must pass legislation that gives them more security for their retirement, and I urge my colleagues to reject the base bill and to vote for the Miller-Rangel substitute.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Speaker, I went to a grade school in suburban Cleveland about a month ago to talk about current affairs, and I asked for a show of hands of about 300 grade schoolers. How many have heard of Enron? Every hand went up. These are first through sixth graders. And then I asked, What do you know about Enron? Some of the sixth graders actually knew there were workers who were cheated out of their pensions. These were sixth graders.

I think it is fair to say just about everybody in America knows about Enron, and most adults certainly know about the fact that people were cheated out of their pensions. Everyone in America knows this except some Members in the House of Representatives. It is as if Enron never happened.

Mr. Speaker, the bill that we consider today continues special treatment for company executive pension plans at the expense of the employees. It is like Enron never happened.

It is just like Enron was some passing fancy, instead of it being symptomatic of something that is wrong at the core of this system, and that is that workers do not get fair treatment.

The Miller substitute is the only bill that addresses the inequity between executives and employees. A vote for the Miller substitute is a vote for fair treatment for workers. The Miller substitute would prohibit plans for executives from receiving greater protections under the law than the 401(k)-type plans that employees have.

As Enron began to implode in a wave of accounting scandals, company executives not only cashed out millions in company stock, but also protected themselves through a number of executive-type plans. Enron employees stand as general creditors to recover 401(k) losses from the misconduct of the cor-

poration. Enron executives prefunded deferred compensation plans that were immune from claims of general creditors once the company went into bankruptcy.

Meanwhile, executive savings plans operate under different rules from the employees' 401(k) plans. Executive savings plans afford executives more choice, more protection of assets, and guarantee more money. Most companies offer these plans. As shown in the 2000 study of Fortune 1000 companies, 86 percent of companies surveyed already had those plans, with the remainder considering adding one. Enron set up an executive savings plan that lets participating executives contribute 25 percent of their salaries and 100 percent of cash bonuses each year. Executives were guaranteed a 9 percent rate of return on the first 2 years of the plan, and allowed to put money in a variety of investments. Executives were not limited to just Enron stock.

In addition, Ken Lay holds a pension that will pay \$475,000 each year for the rest of his life and a prepaid, \$12 million life insurance policy. Think about the workers at Enron. Think about how they have to worry about making ends meet, how they may not be able to make mortgage payments, and about how they may not be able to send their kids to college or have bread on the table. Meanwhile, the executives walk away wealthier than ever.

Enron executives had similar pension or insurance agreements, but employees' 401(k)s are drained. They will be lucky if they get their \$4,650 maximum severance pay. The lack of a consistent set of rules between employees and executives is unjust and unfair, and it should be illegal. Only the Miller substitute makes it so because executive plans have legal protections that put a barrier between the money and the general creditors. Enron executives were protected from losing their retirement. Employees were totally exposed. It is time we stood up for the American workers here.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. HOLT).

Mr. HOLT. Mr. Speaker, it is really quite simple. We have learned some very simple lessons; perhaps we should have learned them a long time ago, but we certainly should learn them now in light of Enron. The employees have been left holding the bag, while the corporate executives, sometimes in a very duplicitous way, walk away with their options, walk away with their bundles.

We have such a good opportunity here to get things right. But the bill before us, the underlying bill, fails to give employees notice when executives are dumping company stock. It fails to hold the plan fiduciaries accountable and limits the ability of the employees to collect damages resulting from misconduct under the pension plan. It denies employees a spot on the pension

board. How simple could that be? Yet the bill fails to do that.

Mr. Speaker, it also continues special treatment of executives. In other words, executives could continue to have their savings set aside and protected through their stock options and so forth when a company fails, while rank and file would be at the end of the line in bankruptcy holding this empty bag.

Perhaps most important, it fails to give employees early control of their assets. Anybody's standard financial advice would be to diversify, and yet the employees are denied the opportunity to diversify for at least 5 years under the underlying bill. Ordinary employees would be prevented from diversifying while corporate executives would be allowed to sell the stock they receive in stock options. We are missing a real opportunity here to help the employees.

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

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

Mr. Speaker, let me close with our section on the general debate and thank my colleagues on both sides of the aisle for their contributions to this process.

Members on both sides of the aisle believe it is important to protect retirement security of American workers, and Members need to understand that there are outdated Federal laws that need to be dealt with.

A bipartisan group of Members believes that the bill, the Pension Security Act, the base bill today, is the reasonable approach to deal with this issue in a balanced way that protects the rights of employees further than it does under current law without driving employers out of the pension business or discouraging employers from setting up new pensions; nor does it restrict the ability of employees to make decisions with regard to their own accounts.

I believe my colleagues on the other side of the aisle want to go too far, too far that will have unintended consequences. As we get into the substitute in a few minutes, we will have an opportunity to talk about those differences and shortcomings.

Mr. MOORE. Mr. Speaker, I rise today to express my reasons for voting against H.R. 3762, the Pension Security Act, and the Miller-Rangel substitute to this legislation.

During my time in Congress, I have strongly supported legislation that would help employees prepare for their retirement. Pension reform legislation affects all working Americans, and as such both parties in Congress have a responsibility to work together in a thoughtful and conscientious manner on this issue. To that end, I am a cosponsor of the bipartisan Employee Savings Bill of Rights Act, which empowers employees to take control of their retirement plan investments and gives workers substantial new rights to avoid over-concentration in the stock of their own company. By

modifying the rules that apply to the 401(k) plans and Employee Stock Ownership Plans (ESOPs) of publicly-traded companies, the Employee Savings Bill of Rights provides workers with needed control over their retirement plan investments while preserving the opportunity for employee ownership. Through new diversification rights, new disclosure requirements and new tax incentives for retirement education, this legislation would help employees achieve retirement security through their 401(k) plans and ESOPs.

I have serious concerns with both H.R. 3762 and the Miller-Rangel substitute to this legislation. I am disappointed that the House has not been able to come together on this issue to advance reasonable, much needed pension reform that will benefit working Americans. Unfortunately, the substitute overreacts to the unfortunate circumstances surrounding Enron's historic bankruptcy. Congress has a duty to the American people to enact responsible legislation that will benefit employees rather than impose new administrative burdens on millions of retirement plans.

The substitute would thwart bipartisan efforts to reduce administrative burdens on employers who voluntarily sponsor retirement plans by imposing new, expensive rules on such plans. The substitute's provision that would require retirement plans to insure against vaguely defined plan asset losses would increase the cost of these retirement plans, creating a disincentive for employers to offer their employees a pension plan.

Additionally, under the substitute, a plan participant is allowed to divest of company stock held in an account after just one year. The bipartisan Employee Savings Bill of Rights Act, of which I am cosponsor, requires only current holdings to be diversified out over five years. The substitute's one-year diversification provision runs the significant risk of causing disruptions in both plan administration and the markets.

Further, the substitute would require employers to create joint employer-employee retirement plan trusteeships. Employers in Kansas's Third District have assured me that this provision has the potential to complicate plan administration to the point that some employers may drop their plans altogether. The working people of this country deserve a more thoughtful, careful process from their federal representatives.

While the substitute goes too far in seeking to ensure reasonable safeguards on employer-sponsored retirement plans, the so-called Pension Security Act does not go far enough in protecting working Americans. Additionally, I am extremely disappointed that the House leadership decided to schedule this legislation for floor consideration instead of the bipartisan Employee Savings Bill of Rights. Last month, the Ways & Means Committee approved this legislation by a near-unanimous vote of 36-2. I am frustrated, though not surprised, at the House leadership's unwillingness to address the important issue of pension reform in a bipartisan fashion.

I will continue to support bipartisan efforts to reform our nation's retirement system in a manner that benefits both employers and employees. I urge my colleagues to do the same.

Mr. ETHERIDGE. Mr. Speaker, I rise in opposition to H.R. 3762, the Pension Security Act and in support of the Miller Substitute. Today, we have an important opportunity to

protect our working families and their retirement security from greedy, unscrupulous corporate wrongdoers. But, Mr. Speaker the Republican Leadership has wasted that opportunity.

Earlier this year, the Ways and Means Committee passed a truly bipartisan pension reform bill. But, the Republican Majority chose to merge that bipartisan measure with a controversial bill passed by the Education and Workforce Committee. The product of that merger, H.R. 3762, does not protect employee pensions, fails to prevent future scandals like Enron, and opens a new loophole that jeopardizes employee savings. H.R. 3762 also establishes complicated diversification rules that do not allow workers substantial control over their retirement investments. Under the Miller Substitute employees would be able to diversify company-matched stock after three years of participation in a 401K plan.

Under current law, employees are allowed to receive independent, comprehensive investment information as a part of their employee benefits package. H.R. 3762 would overturn current law, and allow employers to offer conflicted investment advice to their employees. Financial institutions should not be able to give an employee investment advice if the financial institution stands to profit from that advice. About 15,000 Enron employees lost their retirement savings because Ken Lay and other Enron executives assured their employees that Enron stock was a sound investment. Ken Lay and his cronies lined their pockets while they misled their employees with bad advice. The conflicted investment advice provisions in this bill would set workers up for another Enron. Mr. Speaker, we know all too well the corrupting power of greed.

In contrast the Miller Substitute would offer employees honest, accurate, and timely investment information. It would prohibit pension plans from giving misleading information, require that workers receive regular benefit statements and are notified of plan lockdowns at least 30-days in advance.

As more Americans turn to 401K and other retirement plans to help them prepare for their golden years, we must act to prevent future Enrons. The Republican Leadership had an opportunity to act in bipartisan manner to protect the retirement security of working families, but they chose not to do so. H.R. 3762 fails to solve our pension law problems. In fact, the bill would actually create new ones. The Miller Substitute protects workers and their investments from greedy corporate entities, provides unbiased, independent investment advice, and gives employees control over their retirement savings.

I urge my colleagues to oppose H.R. 3762 and to vote for the Miller Substitute.

Mr. BLUMENAUER. Mr. Speaker, I rise today in strong opposition to H.R. 3762, the Republican leadership's missed opportunity to address concerns for the security of working Americans' pension plans. I fully support the Democratic substitute amendment, which makes an honest attempt to correct the problems apparent in the wake of the Enron debacle.

I represent as many Enron survivors as anyone outside of Houston. Portland, Oregon is the home of Portland General Electric (PGE), a stable utility company founded in 1889 that has provided steady employment to 2,700 employees. Enron purchased PGE in 1997. PGE

line employees did not volunteer for this takeover. They were working for a profitable and respected company, earning a fair salary and saving for retirement in a stable pension plan. After Enron's purchase of PGE, it was only a few years before the stability of Enron. PGE and their employee's retirement savings began to unravel. Enron executives continued to encourage employee investment in Enron stock and spoke of the integrity of the company's financial position, while they sold their personal holdings of Enron stock and drove the company into bankruptcy proceedings.

I have seen the pain and disbelief of PGE employees firsthand. Dozens of people I know personally have had dreams shattered, been forced to postpone life decisions and delay retirement. Those involved in the Enron debacle have failed and abused honest hardworking employees in my district and across the country.

Sadly, it may yet be determined that past Congressional and governmental actions contributed to the betrayal of these honest employees. Today, we have the opportunity to pass legislation that can help to prevent the destruction of working families' lives and retirement savings in the future. It would be tragic if Congress fails American workers again, which will surely happen under the Republican leadership's proposal. The Republican pension bill not only falls short of improving an obviously flawed pension system, but actually weakens current law by providing employees with biased and conflicted investment advice without access to an independent alternative.

To provide true security for retirement savings, pension reform must:

- hold corporate executives accountable for their actions,
- give employees control over their own retirement dollars.
- ensure workers a voice on management pension boards, and
- provide independent advice for workers.

I strongly support the Democratic substitute amendment, which will provide these needed reforms and help protect workers' retirement savings from the misdeeds of executives and corporations. The pain I have witnessed firsthand among the PGE employees in my district demands that Congress provide true pension security.

Mr. MEEHAN. Mr. Speaker, today, the House voted on H.R. 3762, the Pension Security Act. Had I been present, I would have voted in favor of the Democratic substitute authored by Representatives MILLER and RANGEL and against final passage of H.R. 3762, the so-called Pension Security Act.

I would have opposed H.R. 3762, the Republican proposal, because it would have done little to prevent future "Enron" scenarios, where executives and pension administrators withheld financial information from the employees of that company. Without the necessary information about the financial status of the company, Enron's non-executive employees then lost the bulk of their retirement savings when the value of the company's stock fell through the floor.

H.R. 3762 fails to require anyone to alert employees when company officials begin dumping company stock, as Enron executives did just before the value of Enron stock dropped dramatically on the market. H.R. 3762 also fails to hold fiduciaries of pension plans accountable if they violate the law. Furthermore, under H.R. 3762, employees

would not have the option to fully diversify their stock in a timely manner, nor would they have a voice in the administration and protection of their retirement savings. Combined, these failings would leave future workers vulnerable to the same type of financial disaster facing Enron's employees today.

I would have supported the Democratic substitute to H.R. 3762 because I believe it would go a long way towards preventing a future "Enron" situation from occurring. The Democratic substitute to H.R. 3762 would arm employees with the same access to information as corporate executives, giving employees the tools they need to make informed investment decisions regarding their pension plans. Moreover, H.R. 3762 would give employees representation on the boards that manage pension plans and a say in the administration and protection of those plans. I would have also supported the Democratic substitute because it would require executives to notify the pension plan when they are selling large amounts of company stock, and it would give the employees the right to diversify their investments as soon as they are vested in the funds.

I was unable to vote for the Democratic plan and against H.R. 3762 because of a compelling obligation in my Congressional district occurring at the time of the votes. Former Mayor of New York City Rudolph Giuliani is giving remarks in Lowell, Massachusetts today—which is located in my Congressional District. Mayor Giuliani demonstrated superb and heralded leadership immediately following the September 11th terrorist attacks on the World Trade Center in New York City. Tragically, 30 of my constituents lost their lives in those attacks, as they were on the American Airlines jet which was one of two airplanes that crashed into the Twin Towers. Their families continue to mourn the loss of parents, children and siblings and every day feel the pain that terrorism has visited upon them. Mayor Giuliani has provided unique comfort to families who lost loved ones on September 11th because of his boundless compassion, tremendous leadership in the face of unspeakable tragedy, and unstinting efforts to help these families overcome the financial and emotional difficulties caused by this terrible event. I have accordingly arranged for the Mayor to meet privately with these families at my residence and will miss these votes to attend that gathering.

As I was unable to vote for the Democratic substitute today, I am looking forward to having the opportunity to vote for a balanced and effective pension reform bill that I hope will be the result of a House-Senate compromise on this critical issue.

Ms. HARMAN. Mr. Speaker, the collapse of Enron and its impact on employees' retirement plans underscores the need to enact additional federal protections.

The bill before us is a step in that direction. It is far from perfect—but perfection is not an option. Forward progress is.

Similarly, the substitute amendment offered by my colleagues, GEORGE MILLER and CHARLES RANGEL, is not perfect either. While making some improvements over the committee bill, it too has some features that may have the effect of discouraging employers from providing retirement benefits to employees.

Striking the right balance is often a difficult task. But it is especially difficult in an area like

defined contribution pension plans where a poor investment or management decision may cause untold financial hardship on individuals in or near their retirement years.

We clearly need to move the process of reform forward—hopefully combining the best features of both the bill and substitute and more thoroughly vetting the more problematic features of each.

Mr. Speaker, we don't have the luxury of doing nothing. We have long recognized the outdated nature of many of our pension laws. Enron's collapse has provided the impetus for action.

Protecting workers' retirement benefits and encouraging the expansion of pension plans to more companies and workers are positive goals in the abstract. But writing the rules is always more difficult.

We should proceed carefully.

Mr. KIND. Mr. Speaker, this past winter, thousands of ENRON employees, stockholders, and their families saw their life savings disappear. While their nest eggs were being crushed, top executives were selling stock at top dollar and the auditors were shredding documents. The ENRON debacle shook the foundation of our country's private pension system and caused many people to wonder if the same thing could happen to them. Today, 46 million Americans participate in 401(k) and other pension programs with more than \$4 trillion invested in the private pension system.

Congress has a responsibility to improve retirement security and restore confidence in the pension system for millions of Americans. In 1974, Congress enacted the Employee Retirement Income Security Act (ERISA) to provide protection of pension benefits for American's private sector employees. While ERISA made great strides, the growth of 401(k) plans and increased participation in the securities markets call for improved safeguards to protect these individually controlled pension accounts.

Our Democratic substitute includes important provisions that should be included in the underlying bill. For example, the Miller bill would provide employees a voice on their pension board where critical decisions about workers' retirement security are made. In addition, the substitute seeks parity of benefits for executives and rank-and-file workers by closing a current loophole that gives special treatment for executive pension plans.

While I would prefer that the legislation on the floor today contain some of the provisions included in the Miller substitute, the Pension Security Act, is a step in the right direction to provide employees more control and decision making over their 401(k) plans. Pension reform must be carefully done so as not to impose such onerous new restrictions that employers would be unwilling to offer pension plans, or might be encouraged to discontinue the plans they already offer.

Specifically HR 3762 would:

Allow employees to sell their company-contributed stock after three years.

Ensures that corporate executives are held to the same restrictions as average American workers during "lockdown" periods.

Provide workers quarterly statements about their investments and their rights to diversify them.

Ensure that employers assume full fiduciary responsibility during "lockdown" periods.

Expand workers' access to investment advice.

These are common sense reforms that will help employees make better, more informed investment choices to prepare for their golden years. The ENRON scandal exposed weaknesses in our pension laws that could jeopardize these retirement savings. Hardworking Americans should not lose all of their retirement savings due to the wrong doing of corporate executives and loopholes in our pension laws. The legislation, while not perfect, will bring much needed improvements to our private pension system and help millions of American workers save for a happy and healthy retirement.

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

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. GEORGE MILLER OF CALIFORNIA

Mr. GEORGE MILLER of California. Mr. Speaker, I offer an amendment in the nature of a substitute.

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). The Clerk will designate the amendment in the nature of a substitute.

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

Amendment in the nature of a substitute offered by Mr. GEORGE MILLER of California:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Employee Pension Freedom Act of 2002".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title and table of contents.

TITLE I—IMPROVEMENTS IN DISCLOSURE

- Sec. 101. Pension benefit information.
- Sec. 102. Immediate warning of excessive stock holdings.
- Sec. 103. Additional fiduciary protections relating to lockdowns.
- Sec. 104. Report to participants and beneficiaries of trades in employer securities.
- Sec. 105. Provision to participants and beneficiaries of material investment information in accurate form.
- Sec. 106. Enforcement of information and disclosure requirements.

TITLE II—DIVERSIFICATION REQUIREMENTS

- Sec. 201. Freedom to make investment decisions with plan assets.
- Sec. 202. Effective date of title.

TITLE III—EMPLOYEE REPRESENTATION

- Sec. 301. Participation of participants in trusteeship of individual account plans.

TITLE IV—EXECUTIVE PARITY

- Sec. 401. Inclusion in gross income of funded deferred compensation of corporate insiders if corporation funds defined contribution plan with employer stock.
- Sec. 402. Insider trades during pension fund blackout periods prohibited.

TITLE V—INCREASED ACCOUNTABILITY

- Sec. 501. Bonding or insurance adequate to protect interest of participants and beneficiaries.
- Sec. 502. Liability for breach of fiduciary duty.
- Sec. 503. Preservation of rights or claims.
- Sec. 504. Office of Pension Participant Advocacy.

Sec. 505. Additional criminal penalties.

Sec. 506. Study regarding insurance system for individual account plans.

TITLE VI—INVESTMENT ADVICE FOR PARTICIPANTS AND BENEFICIARIES

Sec. 601. Independent investment advice.

Sec. 602. Tax treatment of qualified retirement planning services.

TITLE VII—GENERAL PROVISIONS

Sec. 701. General effective date.

Sec. 702. Plan amendments.

TITLE I—IMPROVEMENTS IN DISCLOSURE

SEC. 101. PENSION BENEFIT INFORMATION.

(a) PENSION BENEFIT STATEMENTS REQUIRED ON PERIODIC BASIS.—

(1) IN GENERAL.—Subsection (a) of section 105 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1025) is amended—

(A) by striking “shall furnish to any plan participant or beneficiary who so requests in writing,” and inserting “shall furnish at least once every 3 years, in the case of a participant in a defined benefit plan who has attained age 35, and annually, in the case of an individual account plan, to each plan participant, and shall furnish to any plan participant or beneficiary who so requests,”; and

(B) by adding at the end the following flush sentence:

“Information furnished under the preceding sentence to a participant in a defined benefit plan (other than at the request of the participant) may be based on reasonable estimates determined under regulations prescribed by the Secretary.”.

(2) MODEL STATEMENT.—Section 105 of such Act (29 U.S.C. 1025) is amended by adding at the end the following new subsection:

“(e)(1) The Secretary of Labor shall develop a model benefit statement which shall be used by plan administrators in complying with the requirements of subsection (a). Such statement shall include—

“(A) the amount of nonforfeitable accrued benefits as of the statement date which is payable at normal retirement age under the plan,

“(B) the amount of accrued benefits which are forfeitable but which may become nonforfeitable under the terms of the plan,

“(C) the amount or percentage of any reduction due to integration of the benefit with the participant's Social Security benefits or similar governmental benefits,

“(D) information on early retirement benefit and joint and survivor annuity reductions, and

“(E) the percentage of the net return on investment of plan assets for the preceding plan year (or, with respect to investments directed by the participant, the net return on investment of plan assets for such year so directed), itemized with respect to each type of investment, and, stated separately, the administrative and transaction fees incurred in connection with each such type of investment, and

“(F) in the case of an individual account plan, the amount and percentage of assets in the individual account that consists of employer securities and employer real property (as defined in paragraphs (1) and (2), respectively, of section 407(d)), as determined as of the most recent valuation date of the plan.

“(2) The Secretary shall also develop a separate notice, which shall be included by the plan administrator with the information furnished pursuant to subsection (a), which advises participants and beneficiaries of generally accepted investment principles, including principles of risk management and diversification for long-term retirement security and the risks of holding substantial assets in a single asset such as employer securities.”.

(3) RULE FOR MULTIEMPLOYER PLANS.—Subsection (d) of section 105 of such Act (29 U.S.C. 1025) is amended to read as follows:

“(d) Each administrator of a plan to which more than 1 unaffiliated employer is required to contribute shall furnish to any plan participant or beneficiary who so requests in writing, a statement described in subsection (a).”.

(b) DISCLOSURE OF BENEFIT CALCULATIONS.—

(1) IN GENERAL.—Section 105 of such Act (as amended by subsection (a)) is amended further—

(A) by redesignating subsections (b), (c), (d), and (e) as subsections (c), (d), (e), and (f), respectively; and

(B) by inserting after subsection (a) the following new subsection:

“(b)(1) In the case of a participant or beneficiary who is entitled to a distribution of a benefit under an employee pension benefit plan, the administrator of such plan shall provide to the participant or beneficiary the information described in paragraph (2) upon the written request of the participant or beneficiary.

“(2) The information described in this paragraph includes—

“(A) a worksheet explaining how the amount of the distribution was calculated and stating the assumptions used for such calculation,

“(B) upon written request of the participant or beneficiary, any documents relating to the calculation (if available), and

“(C) such other information as the Secretary may prescribe.

Any information provided under this paragraph shall be in a form calculated to be understood by the average plan participant.”.

(2) CONFORMING AMENDMENTS.—

(A) Section 101(a)(2) of such Act (29 U.S.C. 1021(a)(2)) is amended by striking “105(a) and (c)” and inserting “105(a), (b), and (d)”.

(B) Section 105(c) of such Act (as redesignated by paragraph (1)(A) of this subsection) is amended by inserting “or (b)” after “subsection (a)”.

(C) Section 106(b) of such Act (29 U.S.C. 1026(b)) is amended by striking “sections 105(a) and 105(c)” and inserting “subsections (a), (b), and (d) of section 105”.

(c) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.—

(1) EXCISE TAX ON FAILURE OF DEFINED CONTRIBUTION PLANS TO PROVIDE NOTICE OF GENERALLY ACCEPTED INVESTMENT PRINCIPLES.—Chapter 43 of the Internal Revenue Code of 1986 (relating to qualified pension, etc., plans) is amended by adding at the end the following new section:

“SEC. 4980L. FAILURE OF DEFINED CONTRIBUTION PLANS TO PROVIDE NOTICE OF GENERALLY ACCEPTED INVESTMENT PRINCIPLES.

“(a) IMPOSITION OF TAX.—There is hereby imposed a tax on the failure of any defined contribution plan to meet the requirements of subsection (e) with respect to any participant or beneficiary.

“(b) AMOUNT OF TAX.—The amount of the tax imposed by subsection (a) on any failure with respect to any participant or beneficiary shall be \$1,000 for each day on which such failure is not corrected.

“(c) LIMITATIONS ON AMOUNT OF TAX.—

“(1) TAX NOT TO APPLY TO FAILURES CORRECTED AS SOON AS REASONABLY PRACTICABLE.—No tax shall be imposed by subsection (a) on any failure if—

“(A) any person subject to liability for the tax under subsection (d) exercised reasonable diligence to meet the requirements of subsection (e), and

“(B) such person provides the notice described in subsection (e) as soon as reasonably practicable after the first date such per-

son knew, or exercising reasonable diligence should have known, that such failure existed.

“(2) OVERALL LIMITATION FOR UNINTENTIONAL FAILURES.—

“(A) IN GENERAL.—If the person subject to liability for tax under subsection (d) exercised reasonable diligence to meet the requirements of subsection (e), the tax imposed by subsection (a) for failures during the taxable year of the employer (or, in the case of a multiemployer plan, the taxable year of the trust forming part of the plan) shall not exceed \$500,000. For purposes of the preceding sentence, all multiemployer plans of which the same trust forms a part shall be treated as 1 plan.

“(B) TAXABLE YEARS IN THE CASE OF CERTAIN CONTROLLED GROUPS.—For purposes of this paragraph, if all persons who are treated as a single employer for purposes of this section do not have the same taxable year, the taxable years taken into account shall be determined under principles similar to the principles of section 1561.

“(3) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive or otherwise inequitable relative to the failure involved.

“(d) LIABILITY FOR TAX.—The following shall be liable for the tax imposed by subsection (a):

“(1) In the case of a plan other than a multiemployer plan, the employer.

“(2) In the case of a multiemployer plan, the plan.

“(e) REQUIREMENTS RELATING TO NOTICE OF GENERALLY ACCEPTED INVESTMENT PRINCIPLES.—The plan administrator of any defined contribution plan shall provide annually a separate notice which advises participants and beneficiaries of generally accepted investment principles, including principles of risk management and diversification for long-term retirement security and the risks of holding substantial assets in a single asset such as employer securities.”.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 43 of such Code is amended by adding at the end the following new item:2

“SEC. 4980L. FAILURE OF DEFINED CONTRIBUTION PLANS TO PROVIDE NOTICE OF GENERALLY ACCEPTED INVESTMENT PRINCIPLES.”.

SEC. 102. IMMEDIATE WARNING OF EXCESSIVE STOCK HOLDINGS.

Section 105 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1025) (as amended by section 101 of this Act) is amended further by adding at the end the following new subsection:

“(g)(1) Upon receipt of information by the plan administrator of an individual account plan indicating that the individual account of any participant which had not been excessively invested in employer securities is excessively invested in such securities (or that such account, as initially invested, is excessively invested in employer securities), the plan administrator shall immediately provide to the participant a separate, written statement—

“(A) indicating that the participant's account has become excessively invested in employer securities,

“(B) setting forth the notice described in subsection (e)(7), and

“(C) referring the participant to investment education materials and investment advice which shall be made available by or under the plan.

In any case in which such a separate, written statement is required to be provided to a

participant under this paragraph, each statement issued to such participant pursuant to subsection (a) thereafter shall also contain such separate, written statement until the plan administrator is made aware that such participant's account has ceased to be excessively invested in employer securities or the employee, in writing, waives the receipt of the notice and acknowledges understanding the importance of diversification.

“(2) Each notice required under this subsection shall be provided in a form and manner which shall be prescribed in regulations of the Secretary. Such regulations shall provide for inclusion in the notice a prominent reference to the risks of large losses in assets available for retirement from excessive investment in employer securities.

“(3) For purposes of paragraph (1), a participant's account is ‘excessively invested’ in employer securities if more than 10 percent of the balance in such account is invested in employer securities (as defined in section 407(d)(1)).”

SEC. 103. ADDITIONAL FIDUCIARY PROTECTIONS RELATING TO LOCKDOWNS.

(a) AMENDMENT TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 404 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104) is amended by adding at the end the following new subsection:

“(e)(1) In the case of any eligible individual account plan (as defined in section 407(d)(3)) no lockdown may take effect until at least 30 days after written notice of such lockdown is provided by the plan administrator to such participant or beneficiary (and to each employee organization representing any such participant).

“(2) Subject to such regulations as the Secretary may prescribe, the requirements of paragraph (1) shall not apply in cases of emergency.

“(3) A plan described in paragraph (1) shall provide that each participant and beneficiary required to receive a notice under paragraph (1)(A) is entitled to direct the plan to divest within 3 business days (but in no event later than the beginning of the lockdown) any security or other property in which any assets allocated to the account of such individual are invested and to reinvest such assets in any other investment option offered under the plan.

“(4) For purposes of this subsection, the term ‘lockdown’ means any temporary lockdown, blackout, or freeze with respect to, suspension of, or similar limitation on the ability of a participant or beneficiary to exercise control over the assets in his or her account as otherwise generally provided under the plan (as determined under regulations of the Secretary), including the ability to direct investments, obtain loans, or obtain distributions.”

(b) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.—

(1) EXCISE TAX ON FAILURES WITH RESPECT TO LOCKDOWNS.—Chapter 43 of the Internal Revenue Code of 1986 (relating to qualified pension, etc., plans) is amended by adding at the end the following new section:

“SEC. 4980G. FAILURE OF DEFINED CONTRIBUTION PLANS WITH RESPECT TO LOCKDOWNS.

“(a) IMPOSITION OF TAX.—There is hereby imposed a tax on the failure of any defined contribution plan to meet the requirements of subsection (e) with respect to any participant or beneficiary.

“(b) AMOUNT OF TAX.—The amount of the tax imposed by subsection (a) on any failure with respect to any participant or beneficiary shall be \$100.

“(c) LIMITATIONS ON AMOUNT OF TAX.—

“(1) TAX NOT TO APPLY TO FAILURES CORRECTED AS SOON AS REASONABLY PRACTICABLE.—No tax shall be imposed by subsection (a) on any failure if—

“(A) any person subject to liability for the tax under subsection (d) exercised reasonable

diligence to meet the requirements of subsection (e), and

“(B) such person meets the requirements of subsection (e) as soon as reasonably practicable after the first date such person knew, or exercising reasonable diligence should have known, that such failure existed.

“(2) OVERALL LIMITATION FOR UNINTENTIONAL FAILURES.—

“(A) IN GENERAL.—If the person subject to liability for tax under subsection (d) exercised reasonable diligence to meet the requirements of subsection (e), the tax imposed by subsection (a) for failures during the taxable year of the employer (or, in the case of a multiemployer plan, the taxable year of the trust forming part of the plan) shall not exceed \$500,000. For purposes of the preceding sentence, all multiemployer plans of which the same trust forms a part shall be treated as 1 plan.

“(B) TAXABLE YEARS IN THE CASE OF CERTAIN CONTROLLED GROUPS.—For purposes of this paragraph, if all persons who are treated as a single employer for purposes of this section do not have the same taxable year, the taxable years taken into account shall be determined under principles similar to the principles of section 1561.

“(3) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive or otherwise inequitable relative to the failure involved.

“(d) LIABILITY FOR TAX.—The following shall be liable for the tax imposed by subsection (a):

“(1) In the case of a plan other than a multiemployer plan, the employer.

“(2) In the case of a multiemployer plan, the plan.

“(e) REQUIREMENTS RELATING TO LOCKDOWNS.—

“(1) IN GENERAL.—In the case of any defined contribution plan no lockdown may take effect until at least 30 days after written notice of such lockdown is provided by the plan administrator to each participant or beneficiary (and to each employee organization representing any such participant).

“(2) EXCEPTION FOR EMERGENCY.—Subject to such regulations as the Secretary may prescribe, the requirements of paragraph (1) shall not apply in cases of emergency.

“(3) REQUIREMENT RELATING TO DIVESTMENT.—A plan described in paragraph (1) shall provide that each participant and beneficiary required to receive a notice under paragraph (1)(A) is entitled to direct the plan to divest within 3 business days (but in no event later than the beginning of the lockdown) any security or other property in which any assets allocated to the account of such individual are invested and to reinvest such assets in any other investment option offered under the plan.

“(4) LOCKDOWN DEFINED.—For purposes of this subsection, the term ‘lockdown’ means any temporary lockdown, blackout, or freeze with respect to, suspension of, or similar limitation on the ability of a participant or beneficiary to exercise control over the assets in his or her account as otherwise generally provided under the plan (as determined under regulations of the Secretary), including the ability to direct investments, obtain loans, or obtain distributions.”

(2) CLERICAL AMENDMENT.—The table of sections for chapter 43 of such Code is amended by adding at the end the following new item:

“SEC. 4980G. FAILURE OF DEFINED CONTRIBUTION PLANS WITH RESPECT TO LOCKDOWNS.”

SEC. 104. REPORT TO PARTICIPANTS AND BENEFICIARIES OF TRADES IN EMPLOYER SECURITIES.

(a) IN GENERAL.—Section 104 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

“(d)(1) In any case in which assets in the individual account of a participant or beneficiary under an individual account plan include employer securities, if any person engages in a transaction constituting a direct or indirect purchase or sale of employer securities and—

“(A) such transaction is required under section 16 of the Securities Exchange Act of 1934 to be reported by such person to the Securities and Exchange Commission, or

“(B) such person is a named fiduciary of the plan, such person shall comply with the requirements of paragraph (2).

“(2) A person described in paragraph (1) complies with the requirements of this paragraph in connection with a transaction described in paragraph (1) if such person provides to the plan administrator of the plan a written notification of the transaction not later than 1 business day after the date of the transaction.

“(3)(A) If the plan administrator is made aware, on the basis of notifications received pursuant to paragraph (2) or otherwise, that the proceeds from any transaction described in paragraph (1), constituting direct or indirect sales of employer securities by any person described in paragraph (1), exceed \$100,000, the plan administrator of the plan shall provide to each participant and beneficiary a notification of such transaction. Such notification shall be in writing, except that such notification may be in electronic or other form to the extent that such form is reasonably accessible to the participant or beneficiary.

“(B) In any case in which the proceeds from any transaction described in paragraph (1) (with respect to which a notification has not been provided pursuant to this paragraph), together with the proceeds from any other such transaction or transactions described in paragraph (1) occurring during the preceding one-year period, constituting direct or indirect sales of employer securities by any person described in paragraph (1), exceed (in the aggregate) \$100,000, such series of transactions by such person shall be treated as a transaction described in subparagraph (A) by such person.

“(C) Each notification required under this paragraph shall be provided as soon as practicable, but not later than 3 business days after receipt of the written notification or notifications indicating that the transaction (or series of transactions) requiring such notice has occurred.

“(4) Each notification required under paragraph (2) or (3) shall be made in such form and manner as may be prescribed in regulations of the Secretary and shall include the number of shares involved in each transaction and the price per share, and the notification required under paragraph (3) shall be written in language designed to be understood by the average plan participant. The Secretary may provide by regulation, in consultation with the Securities and Exchange Commission, for exemptions from the requirements of this subsection with respect to specified types of transactions to the extent that such exemptions are consistent with the best interests of plan participants and beneficiaries. Such exemptions may relate to transactions involving reinvestment plans, stock splits, stock dividends, qualified domestic relations orders, and similar matters.

“(5) For purposes of this subsection, the term ‘employer security’ has the meaning provided in section 407(d)(1).”.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to transactions occurring on or after July 1, 2002.

SEC. 105. PROVISION TO PARTICIPANTS AND BENEFICIARIES OF MATERIAL INVESTMENT INFORMATION IN ACCURATE FORM.

Section 404(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104(c)) is amended by adding at the end the following new paragraph:

“(4) The plan sponsor and plan administrator of a pension plan described in paragraph (1) shall have a fiduciary duty to ensure that each participant and beneficiary under the plan, in connection with the investment by the participant or beneficiary of plan assets in the exercise of his or her control over assets in his account, is provided with all material investment information regarding investment of such assets to the extent that the provision of such information is generally required to be disclosed by the plan sponsor to investors in connection with such an investment under applicable securities laws. The provision by the plan sponsor or plan administrator of any misleading investment information shall be treated as a violation of this paragraph.”.

SEC. 106. ENFORCEMENT OF INFORMATION AND DISCLOSURE REQUIREMENTS.

(a) **IN GENERAL.**—Section 502(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(c)) is amended—

(1) by redesignating paragraph (7) as paragraph (8); and

(2) by inserting after paragraph (6) the following new paragraph:

“(7) The Secretary may assess a civil penalty against any person required to provide any notification under the provisions of section 104(d), any statement under the provisions of subsection (a), (d), or (f) of section 105, any information under the provisions of section 404(c)(4), or any notice under the provisions of section 404(f)(1) of up to \$1,000 a day from the date of any failure by such person to provide such notification, statement, information, or notice in accordance with such provisions.”.

(b) **CONFORMING AMENDMENT.**—Section 502(a)(6) of such Act (29 U.S.C. 1132(a)(6)) (as amended by section 102(b)) is amended further by striking “(5), or (6)” and inserting “(5), (6), or (7)”.

TITLE II—DIVERSIFICATION REQUIREMENTS

SEC. 201. FREEDOM TO MAKE INVESTMENT DECISIONS WITH PLAN ASSETS.

(a) **AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.**—Section 404 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104) (as amended by section 103) is amended further by adding at the end the following new subsection:

“(f)(1)(A)(i) Subject to clause (ii), an individual account plan under which a participant or beneficiary is permitted to exercise control over assets in his or her account shall provide that—

“(I) any such participant or beneficiary has the right to allocate all assets in his or her account (and any portion thereof) attributable to employee contributions to any investment option provided under the plan, and

“(II) any such participant who has completed 3 years of service (as defined in section 203(b)(2)) with the employer, or any such beneficiary of such a participant, has the right to allocate all assets in his or her account (and any portion thereof) attributable to employer contributions to any investment option provided under the plan.

The application of any penalty or any restriction based on age or years of service in connection with any exercise of such right as provided under this clause shall be construed as a violation of this clause.

“(ii) Clause (i) shall apply only to so much of a nonforfeitable accrued benefit as consists of employer securities which are readily tradable on an established securities market.

“(B)(i) Except as provided in clause (ii), within 5 days after the date of any election by a participant or beneficiary allocating his or her nonforfeitable accrued benefit to any investment option provided under the plan, the plan administrator shall take such actions as are necessary to effectuate such allocation.

“(ii) In any case in which the plan provides for elections periodically during prescribed periods, the 5-day period described in clause (i) shall commence at the end of each such prescribed period.

“(C) Nothing in this paragraph shall be construed to limit the authority of a plan to impose limitations on the portion of plan assets in any account which may be invested in employer securities to the extent that any such limitation is consistent with this title and not more restrictive than is permitted under this title.

“(2) Not later than 30 days prior to the date on which the right of a participant under an individual account plan to his or her accrued benefit becomes nonforfeitable, the plan administrator shall provide to such participant and his or her beneficiaries a written notice—

“(A) setting forth their rights under this section with respect to the accrued benefit, and

“(B) describing the importance of diversifying the investment of account assets.”.

(b) **AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.**—

(1) **EXCISE TAX ON FAILURE TO PERMIT DIVERSIFICATION OF EMPLOYER SECURITIES.**—Chapter 43 of the Internal Revenue Code of 1986 (relating to qualified pension, etc., plans) is amended by adding at the end the following new section:

“SEC. 4980H. FAILURE OF DEFINED CONTRIBUTION PLANS TO PERMIT DIVERSIFICATION OF EMPLOYER SECURITIES.

“(a) **IMPOSITION OF TAX.**—There is hereby imposed a tax on the failure of any defined contribution plan to meet the requirements of subsection (e) with respect to any participant or beneficiary.

“(b) **AMOUNT OF TAX.**—The amount of the tax imposed by subsection (a) on any failure with respect to any participant or beneficiary shall be \$1,000 for each day for which the failure is not corrected.

“(c) **LIMITATIONS ON AMOUNT OF TAX.**—

“(1) **TAX NOT TO APPLY TO FAILURES CORRECTED AS SOON AS REASONABLY PRACTICABLE.**—No tax shall be imposed by subsection (a) on any failure if—

“(A) any person subject to liability for the tax under subsection (d) exercised reasonable diligence to meet the requirements of subsection (e), and

“(B) such person meets the requirements of subsection (e) as soon as reasonably practicable after the first date such person knew, or exercising reasonable diligence should have known, that such failure existed.

“(2) **OVERALL LIMITATION FOR UNINTENTIONAL FAILURES.**—

“(A) **IN GENERAL.**—If the person subject to liability for tax under subsection (d) exercised reasonable diligence to meet the requirements of subsection (e), the tax imposed by subsection (a) for failures during the taxable year of the employer (or, in the case of a multiemployer plan, the taxable year of

the trust forming part of the plan) shall not exceed \$500,000. For purposes of the preceding sentence, all multiemployer plans of which the same trust forms a part shall be treated as 1 plan.

“(B) **TAXABLE YEARS IN THE CASE OF CERTAIN CONTROLLED GROUPS.**—For purposes of this paragraph, if all persons who are treated as a single employer for purposes of this section do not have the same taxable year, the taxable years taken into account shall be determined under principles similar to the principles of section 1561.

“(3) **WAIVER BY SECRETARY.**—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive or otherwise inequitable relative to the failure involved.

“(d) **LIABILITY FOR TAX.**—The following shall be liable for the tax imposed by subsection (a):

“(1) In the case of a plan other than a multiemployer plan, the employer.

“(2) In the case of a multiemployer plan, the plan.

“(e) **REQUIREMENTS RELATING TO DIVERSIFICATION OF EMPLOYER SECURITY.**—

“(1) **IN GENERAL.**—The requirements of this subsection are the requirements of paragraphs (2), (3), and (4).

“(2) **RIGHT TO DIRECT INVESTMENTS.**—

“(A) **IN GENERAL.**—Subject to subparagraph (B), a plan meets the requirements of this paragraph if, under the plan—

“(i) any participant or beneficiary who is permitted to exercise control over assets in his or her account has the right to allocate all assets in his or her account (and any portion thereof) attributable to employee contributions to any investment option provided under the plan, and

“(ii) any such participant who has completed 3 years of service (as defined in section 411(a)(5)) with the employer, or any such beneficiary of such a participant, has the right to allocate all assets in his or her account (and any portion thereof) attributable to employer contributions to any investment option provided under the plan.

The application of any penalty or any restriction based on age or years of service in connection with any exercise of such right as provided under this clause shall be construed as a violation of this clause.

“(B) **LIMITATION TO READILY TRADABLE EMPLOYER SECURITIES.**—Subparagraph (A) shall apply only to so much of a nonforfeitable accrued benefit as consists of employer securities which are readily tradable on an established securities market.

“(3) **PROMPT COMPLIANCE WITH DIRECTIONS TO ALLOCATE INVESTMENTS.**—

“(A) **IN GENERAL.**—Except as provided in subparagraph (B), a plan meets the requirements of this paragraph if the plan provides that, within 5 days after the date of any election by a participant or beneficiary allocating his or her nonforfeitable accrued benefit to any investment option provided under the plan, the plan administrator shall take such actions as are necessary to effectuate such allocation.

“(B) **SPECIAL RULE FOR PERIODIC ELECTIONS.**—In any case in which the plan provides for elections periodically during prescribed periods, the 5-day period described in subparagraph (A) shall commence at the end of each such prescribed period.

“(4) **NOTICE OF RIGHTS AND OF IMPORTANCE OF DIVERSIFICATION.**—A plan meets the requirements of this paragraph if the plan provides that, not later than 30 days prior to the date on which the right of a participant under the plan to his or her accrued benefit

becomes nonforfeitable, the plan administrator shall provide to such participant and his or her beneficiaries a written notice—

“(A) setting forth their rights under this section with respect to the accrued benefit, and

“(B) describing the importance of diversifying the investment of account assets.

“(5) PRESERVATION OF AUTHORITY OF PLAN TO LIMIT INVESTMENT.—Nothing in this subsection shall be construed to limit the authority of a plan to impose limitations on the portion of plan assets in any account which may be invested in employer securities.”.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 43 of such Code is amended by adding at the end the following new item:

“SEC. 4980H. FAILURE OF DEFINED CONTRIBUTION PLANS TO PERMIT DIVERSIFICATION OF EMPLOYER SECURITIES.”.

(C) RECOMMENDATIONS RELATING TO NON-PUBLICLY TRADED STOCK.—Within 1 year after the date of the enactment of this Act, the Secretary of Labor and the Secretary of the Treasury shall jointly transmit to the Committee on Education and the Workforce and the Committee on Ways and Means of the House of Representatives and the Committee on Health, Education, Labor, and Pensions and the Committee on Finance of the Senate their recommendations regarding legislative changes relating to treatment, under section 404(e) of the Employee Retirement Income Security Act of 1974 and section 401(a)(35) of the Internal Revenue Code of 1986 (as added by this section), of individual account plans under which a participant or beneficiary is permitted to exercise control over assets in his or her account, in cases in which such assets do not include employer securities which are readily tradable under an established securities market.

SEC. 202. EFFECTIVE DATE OF TITLE.

(a) IN GENERAL.—Subject to subsection (b), the amendments made by this title shall apply with respect to plan years beginning on or after January 1, 2003.

(b) DELAYED EFFECTIVE DATE FOR EXISTING HOLDINGS.—In any case in which a portion of the nonforfeitable accrued benefit of a participant or beneficiary is held in the form of employer securities (as defined in section 407(d)(1) of the Employee Retirement Income Security Act of 1974) immediately before the first date of the first plan year to which the amendments made by this title apply, such portion shall be taken into account only with respect to plan years beginning on or after January 1, 2004.

TITLE III—EMPLOYEE REPRESENTATION

SEC. 301. PARTICIPATION OF PARTICIPANTS IN TRUSTEESHIP OF INDIVIDUAL ACCOUNT PLANS.

(a) IN GENERAL.—Section 403(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1103(a)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by inserting “(1)” after “(a)”; and

(3) by adding at the end the following new paragraph:

“(2)(A) The assets of a single-employer plan which is an individual account plan and under which some or all of the assets are derived from employee contributions shall be held in trust by a joint board of trustees, which shall consist of two or more trustees representing on an equal basis the interests of the employer or employers maintaining the plan and the interests of the participants and their beneficiaries and having equal voting rights.

“(B)(i) Except as provided in clause (ii), in any case in which the plan is maintained

pursuant to one or more collective bargaining agreements between one or more employee organizations and one or more employers, the trustees representing the interests of the participants and their beneficiaries shall be designated by such employee organizations.

“(ii) Clause (i) shall not apply with respect to a plan described in such clause if the employee organization (or all employee organizations, if more than one) referred to in such clause file with the Secretary, in such form and manner as shall be prescribed in regulations of the Secretary, a written waiver of their rights under clause (i).

“(iii) In any case in which clause (i) does not apply with respect to a single-employer plan because the plan is not described in clause (i) or because of a waiver filed pursuant to clause (ii), the trustee or trustees representing the interests of the participants and their beneficiaries shall be selected by the plan participants in accordance with regulations of the Secretary.

“(C) An individual shall not be treated as ineligible for selection as trustee solely because such individual is an employee of the plan sponsor, except that the employee so selected may not be a highly compensated employee (as defined in section 414(q) of the Internal Revenue Code of 1986).

“(D) The Secretary shall provide by regulation for the appointment of a neutral individual, in accordance with the procedures under section 203(f) of the Labor Management Relations Act, 1947 (29 U.S.C. 173(f)), to cast votes as necessary to resolve tie votes by the trustees.”.

(b) REGULATIONS.—The Secretary of Labor shall prescribe the initial regulations necessary to carry out the provisions of the amendments made by this section not later than 90 days after the date of the enactment of this Act.

TITLE IV—EXECUTIVE PARITY

SEC. 401. INCLUSION IN GROSS INCOME OF FUNDED DEFERRED COMPENSATION OF CORPORATE INSIDERS IF CORPORATION FUNDS DEFINED CONTRIBUTION PLAN WITH EMPLOYER STOCK.

(a) IN GENERAL.—Subpart A of part I of subchapter D of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

“SEC. 409A. DENIAL OF DEFERRAL FOR FUNDED DEFERRED COMPENSATION OF CORPORATE INSIDERS IF CORPORATION FUNDS DEFINED CONTRIBUTION PLAN WITH EMPLOYER STOCK.

“(a) IN GENERAL.—If an employer maintains a defined contribution plan to which employer contributions are made in the form of employer stock and such employer maintains a funded deferred compensation plan—

“(1) compensation of any corporate insider which is deferred under such funded deferred compensation plan shall be included in the gross income of the insider or beneficiary for the 1st taxable year in which there is no substantial risk of forfeiture of the rights to such compensation, and

“(2) the tax treatment of any amount made available under the plan to a corporate insider or beneficiary shall be determined under section 72 (relating to annuities, etc.).

“(b) FUNDED DEFERRED COMPENSATION PLAN.—For purposes of this section—

“(1) IN GENERAL.—The term ‘funded deferred compensation plan’ means any plan providing for the deferral of compensation unless—

“(A) the employee’s rights to the compensation deferred under the plan are no greater than the rights of a general creditor of the employer, and

“(B) all amounts set aside (directly or indirectly) for purposes of paying the deferred compensation, and all income attributable

to such amounts, remain (until made available to the participant or other beneficiary) solely the property of the employer (without being restricted to the provision of benefits under the plan), and

“(C) the amounts referred to in subparagraph (B) are available to satisfy the claims of the employer’s general creditors at all times (not merely after bankruptcy or insolvency).

Such term shall not include a qualified employer plan.

“(2) SPECIAL RULES.—

“(A) EMPLOYEE’S RIGHTS.—A plan shall be treated as failing to meet the requirements of paragraph (1)(A) unless, under the written terms of the plan—

“(i) the compensation deferred under the plan is paid only upon separation from service, death, or at a specified time (or pursuant to a fixed schedule), and

“(ii) the plan does not permit the acceleration of the time such deferred compensation is paid by reason of any event.

If the employer and employee agree to a modification of the plan that accelerates the time for payment of any deferred compensation, then all compensation previously deferred under the plan shall be includible in gross income for the taxable year during which such modification takes effect and the taxpayer shall pay interest at the underpayment rate on the underpayments that would have occurred had the deferred compensation been includible in gross income in the taxable years deferred.

“(B) CREDITOR’S RIGHTS.—A plan shall be treated as failing to meet the requirements of paragraph (1)(B) with respect to amounts set aside in a trust unless—

“(i) the employee has no beneficial interest in the trust,

“(ii) assets in the trust are available to satisfy claims of general creditors at all times (not merely after bankruptcy or insolvency), and

“(iii) there is no factor (such as the location of the trust outside the United States) that would make it more difficult for general creditors to reach the assets in the trust than it would be if the trust assets were held directly by the employer in the United States.

“(c) CORPORATE INSIDER.—For purposes of this section, the term ‘corporate insider’ means, with respect to a corporation, any individual who is subject to the requirements of section 16(a) of the Securities Exchange Act of 1934 with respect to such corporation.

“(d) OTHER DEFINITIONS.—For purposes of this section—

“(1) PLAN INCLUDES ARRANGEMENTS, ETC.—The term ‘plan’ includes any agreement or arrangement.

“(2) SUBSTANTIAL RISK OF FORFEITURE.—The rights of a person to compensation are subject to a substantial risk of forfeiture if such person’s rights to such compensation are conditioned upon the future performance of substantial services by any individual.”

(b) CLERICAL AMENDMENT.—The table of sections for such subpart A is amended by adding at the end the following new item:

“SEC. 409A. DENIAL OF DEFERRAL FOR FUNDED DEFERRED COMPENSATION OF CORPORATE INSIDERS IF CORPORATION FUNDS DEFINED CONTRIBUTION PLAN WITH EMPLOYER STOCK.”

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts deferred after the date of the enactment of this Act.

SEC. 402. INSIDER TRADES DURING PENSION FUND BLACKOUT PERIODS PROHIBITED.

(a) PROHIBITION.—It shall be unlawful for any person who is directly or indirectly the

beneficial owner of more than 10 percent of any class of any equity security (other than an exempted security) which is registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78i) or who is a director or an officer of the issuer of such security, directly or indirectly, to purchase (or otherwise acquire) or sell (or otherwise transfer) any equity security of any issuer (other than an exempted security), during any blackout period with respect to such equity security.

(b) **REMEDY.**—Any profit realized by such beneficial owner, director, or officer from any purchase (or other acquisition) or sale (or other transfer) in violation of this section shall inure to and be recoverable by the issuer irrespective of any intention on the part of such beneficial owner, director, or officer in entering into the transaction. Suit to recover such profit may be instituted at law or in equity in any court of competent jurisdiction by the issuer, or by the owner of any security of the issuer in the name and in behalf of the issuer if the issuer shall fail or refuse to bring such suit within 60 days after request or shall fail diligently to prosecute the same thereafter; but no such suit shall be brought more than 2 years after the date such profit was realized. This subsection shall not be construed to cover any transaction where such beneficial owner was not such both at the time of the purchase and sale, or the sale and purchase, of the security or security-based swap (as defined in section 206B of the Gramm-Leach-Bliley Act) involved, or any transaction or transactions which the Commission by rules and regulations may exempt as not comprehended within the purposes of this subsection.

(c) **RULEMAKING PERMITTED.**—The Commission may issue rules to clarify the application of this subsection, to ensure adequate notice to all persons affected by this subsection, and to prevent evasion thereof.

(d) As used in this section:

(1) **BENEFICIAL OWNER.**—The term “beneficial owner” has the meaning provided such term in rules or regulations issued by the Commission under section 16 of the Securities Exchange Act of 1934 (15 U.S.C. 78p).

(2) **BLACKOUT PERIOD.**—The term “blackout period” with respect to the equity securities of any issuer—

(A) means any period during which the ability of at least fifty percent of the participants or beneficiaries under all applicable individual account plans maintained by the issuer to purchase (or otherwise acquire) or sell (or otherwise transfer) an interest in any equity of such issuer is suspended by the issuer or a fiduciary of the plan; but

(B) does not include—

(i) a period in which the employees of an issuer may not allocate their interests in the individual account plan due to an express investment restriction—

(I) incorporated into the individual account plan; and

(II) timely disclosed to employees before joining the individual account plan or as a subsequent amendment to the plan;

(ii) any suspension described in subparagraph (A) that is imposed solely in connection with persons becoming participants or beneficiaries, or ceasing to be participants or beneficiaries, in an applicable individual account plan by reason of a corporate merger, acquisition, divestiture, or similar transaction.

(3) **COMMISSION.**—The term “Commission” means the Securities and Exchange Commission.

(4) **INDIVIDUAL ACCOUNT PLAN.**—The term “individual account plan” has the meaning provided such term in section 3(34) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(34)).

(5) **ISSUER.**—The term “issuer” shall have the meaning set forth in section 2(a)(4) of the Securities Act of 1933 (15 U.S.C. 77b(a)(4)).

TITLE V—INCREASED ACCOUNTABILITY

SEC. 501. BONDING OR INSURANCE ADEQUATE TO PROTECT INTEREST OF PARTICIPANTS AND BENEFICIARIES.

Section 412 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1112) is amended by adding at the end the following new subsection:

“(f) Notwithstanding the preceding provisions of this section, each fiduciary of an individual account plan shall be bonded or insured, in accordance with regulations which shall be prescribed by the Secretary, in an amount sufficient to ensure coverage by the bond or insurance of financial losses due to any failure to meet the requirements of this part.”.

SEC. 502. LIABILITY FOR BREACH OF FIDUCIARY DUTY.

(a) **LIABILITY FOR PARTICIPATING IN OR CONCEALING FIDUCIARY BREACH.**—

(1) **APPLICATION TO PARTICIPANTS AND BENEFICIARIES OF 401(K) PLANS.**—

(A) **IN GENERAL.**—Part 4 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1101 et seq.) is amended by adding after section 409 the following new section:

“SEC. 409A. LIABILITY FOR BREACH OF FIDUCIARY DUTY IN 401(K) PLANS.

“(a) Any person who is a fiduciary with respect to an individual account plan that includes a qualified cash or deferred arrangement under section 401(k) of the Internal Revenue Code of 1986 who breaches any of the responsibilities, obligations, or duties imposed upon fiduciaries by this title shall be personally liable to make good to each participant and beneficiary of the plan any losses to such participant or beneficiary resulting from each such breach, and to restore to such participant or beneficiary any profits of such fiduciary which have been made through use of assets of the plan by the fiduciary, and shall be subject to such other equitable or remedial relief as the court may deem appropriate, including removal of such fiduciary. A fiduciary may also be removed for a violation of section 411 of this Act.

“(b) The right of participants and beneficiaries under subsection (a) to sue for breach of fiduciary duty with respect to an individual account plan that includes a qualified cash or deferred arrangement under section 401(k) of such Code shall be in addition to all existing rights that participants and beneficiaries have under section 409, section 502, and any other provision of this title, and shall not be construed to give rise to any inference that such rights do not already exist under section 409, section 502, or any other provision of this title.

“(c) No fiduciary shall be liable with respect to a breach of fiduciary duty under this title if such breach was committed before he or she became a fiduciary or after he or she ceased to be a fiduciary.”

(B) **CONFORMING AMENDMENT.**—The table of contents for part 4 of subtitle B of title I of such Act is amended by inserting the following new item after the item relating to section 409:

“SEC. 409A. LIABILITY FOR BREACH OF FIDUCIARY DUTY IN 401(K) PLANS.”

(2) **INSIDER LIABILITY.**—

(A) **IN GENERAL.**—Section 409 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1109) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

“(b)(1)(A) If an insider with respect to the plan sponsor of an employer individual account plan that holds employer securities

that are readily tradable on an established securities market—

“(i) knowingly participates in a breach of fiduciary responsibility to which subsection (a) applies, or

“(ii) knowingly undertakes to conceal such a breach,

such insider shall be personally liable under this subsection for such breach in the same manner as the fiduciary who commits such breach.

“(B) For purposes of subparagraph (A), the term ‘insider’ means, with respect to any plan sponsor of a plan to which subparagraph (A) applies—

“(i) any officer or director with respect to the plan sponsor, or

“(ii) any independent qualified public accountant of the plan or of the plan sponsor.

“(3) Any relief provided under this subsection or section 409A—

“(A) to an individual account plan shall inure to the individual accounts of the affected participants or beneficiaries, and

“(B) to a participant or beneficiary shall be payable to the individual account plan on behalf of such participant or beneficiary unless such plan has been terminated.”

(B) **CONFORMING AMENDMENT.**—Section 409(c) of such Act (29 U.S.C. 1109(c)), as redesignated by subparagraph (A), is amended by inserting before the period the following: “, unless such liability arises under subsection (b)”.

(b) **MAINTENANCE OF FIDUCIARY LIABILITY.**—Section 404(c)(1)(B) of such Act (29 U.S.C. 1104(c)(1)(B)) is amended by inserting before the period the following: “, except that this subparagraph shall not be construed to exempt any fiduciary from liability for any violation of subsection (e) or (f)”.

SEC. 503. PRESERVATION OF RIGHTS OR CLAIMS.

Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) is amended by adding at the end the following new subsection:

“(n)(1) The rights under this title (including the right to maintain a civil action) may not be waived, deferred, or lost pursuant to any agreement not authorized under this title with specific reference to this subsection.

“(2) Paragraph (1) shall not apply to an agreement providing for arbitration or participation in any other nonjudicial procedure to resolve a dispute if the agreement is entered into knowingly and voluntarily by the parties involved after the dispute has arisen or is pursuant to the terms of a collective bargaining agreement.”.

SEC. 504. OFFICE OF PENSION PARTICIPANT ADVOCACY.

(a) **IN GENERAL.**—Title III of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 3001 et seq.) is amended by adding at the end the following:

“(1) **IN GENERAL.**—There is established in the Department of Labor an office to be known as the ‘Office of Pension Participant Advocacy’.

“(2) **PENSION PARTICIPANT ADVOCATE.**—The Office of Pension Participant Advocacy shall be under the supervision and direction of an official to be known as the ‘Pension Participant Advocate’ who shall—

“(A) have demonstrated experience in the area of pension participant assistance, and

“(B) be selected by the Secretary after consultation with pension participant advocacy organizations.

The Pension Participant Advocate shall report directly to the Secretary and shall be entitled to compensation at the same rate as the highest rate of basic pay established for the Senior Executive Service under section 5382 of title 5, United States Code.

“(b) FUNCTIONS OF OFFICE.—It shall be the function of the Office of Pension Participant Advocacy to—

“(1) evaluate the efforts of the Federal Government, business, and financial, professional, retiree, labor, women’s, and other appropriate organizations in assisting and protecting pension plan participants, including—

“(A) serving as a focal point for, and actively seeking out, the receipt of information with respect to the policies and activities of the Federal Government, business, and such organizations which affect such participants,

“(B) identifying significant problems for pension plan participants and the capabilities of the Federal Government, business, and such organizations to address such problems, and

“(C) developing proposals for changes in such policies and activities to correct such problems, and communicating such changes to the appropriate officials,

“(2) promote the expansion of pension plan coverage and the receipt of promised benefits by increasing the awareness of the general public of the value of pension plans and by protecting the rights of pension plan participants, including—

“(A) enlisting the cooperation of the public and private sectors in disseminating information, and

“(B) forming private-public partnerships and other efforts to assist pension plan participants in receiving their benefits,

“(3) advocating for the full attainment of the rights of pension plan participants, including by making pension plan sponsors and fiduciaries aware of their responsibilities,

“(4) giving priority to the special needs of low and moderate income participants,

“(5) developing needed information with respect to pension plans, including information on the types of existing pension plans, levels of employer and employee contributions, vesting status, accumulated benefits, benefits received, and forms of benefits, and

“(6) pursuing claims on behalf of participants and beneficiaries and providing appropriate assistance in the resolution of disputes between participants and beneficiaries and pension plans, including assistance in obtaining settlement agreements.

“(c) REPORTS.—

“(1) ANNUAL REPORT.—Not later than December 31 of each calendar year, the Pension Participant Advocate shall report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate on its activities during the fiscal year ending in the calendar year. Such report shall—

“(A) identify significant problems the Advocate has identified,

“(B) include specific legislative and regulatory changes to address the problems, and

“(C) identify any actions taken to correct problems identified in any previous report.

The Advocate shall submit a copy of such report to the Secretary and any other appropriate official at the same time it is submitted to the committees of Congress.

“(2) SPECIFIC REPORTS.—The Pension Participant Advocate shall report to the Secretary or any other appropriate official any time the Advocate identifies a problem which may be corrected by the Secretary or such official.

“(3) REPORTS TO BE SUBMITTED DIRECTLY.—The report required under paragraph (1) shall be provided directly to the committees of Congress without any prior review or comment than the Secretary or any other Federal officer or employee.

“(d) SPECIFIC POWERS.—

“(1) RECEIPT OF INFORMATION.—Subject to such confidentiality requirements as may be appropriate, the Secretary and other Federal officials shall, upon request, provide such information (including plan documents) as may be necessary to enable the Pension Participant Advocate to carry out the Advocate’s responsibilities under this section.

“(2) APPEARANCES.—The Pension Participant Advocate may represent the views and interests of pension plan participants before any Federal agency, including, upon request of a participant, in any proceeding involving the participant.

“(3) CONTRACTING AUTHORITY.—In carrying out responsibilities under subsection (b)(5), the Pension Participant Advocate may, in addition to any other authority provided by law—

“(A) contract with any person to acquire statistical information with respect to pension plan participants, and

“(B) conduct direct surveys of pension plan participants.”

(b) CONFORMING AMENDMENT.—The table of contents for title III of such Act is amended by adding at the end the following:

“Subtitle C—Office of Pension Participant Advocacy

“3051. Office of Pension Participant Advocacy.”.

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on January 1, 2003.

SEC. 505. ADDITIONAL CRIMINAL PENALTIES.

Section 501 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1131) is amended—

(1) by inserting “(a)” after “SEC. 501.”;

(2) by striking “\$5,000” and inserting “\$50,000” and by striking “\$100,000” and inserting “\$500,000”;

(3) by adding at the end the following new subsection:

“(b) Any person described in subsection (a) of 402 of the Employee Pension Freedom Act of 2002 who willfully violates such section or section 104(d) or causes an individual account plan to fail to meet the requirements of section 409A of the Internal Revenue Code of 1986 shall upon conviction be fined not more than \$500,000 or imprisoned not more than one year, or both.”.

SEC. 506. STUDY REGARDING INSURANCE SYSTEM FOR INDIVIDUAL ACCOUNT PLANS.

(a) STUDY.—As soon as practicable after the date of the enactment of this Act, the Pension Benefit Guaranty Corporation shall contract to carry out a study relating to the establishment of an insurance system for individual account plans. In conducting such study, the Corporation shall consider—

(1) the feasibility and impact of such a system, and

(2) options for developing such a system.

(b) REPORT.—Not later than 3 years after the date of the enactment of this Act, the Corporation shall report the results of its study, together with any recommendations for legislative changes, to the Committee on Education and the Workforce and the Committee on Ways and Means of the House of Representatives and the Committee on Health, Education, Labor, and Pensions and the Committee on Finance of the Senate.

TITLE VI—INVESTMENT ADVICE FOR PARTICIPANTS AND BENEFICIARIES

SEC. 601. INDEPENDENT INVESTMENT ADVICE.

(a) IN GENERAL.—SECTION 404(C)(1) OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 (29 U.S.C. 1104(C)(1)) (AS AMENDED BY SECTION 102(C)) IS AMENDED FURTHER—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and by inserting “(A)” after “(c)(1)”;

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

“(B)(i) In the case of a pension plan described in subparagraph (A) which provides investment in employer securities as at least one option for investment of plan assets at the direction of the participant or beneficiary, such plan shall make available to the participant or beneficiary the services of a qualified fiduciary adviser for purposes of providing investment advice described in section 3(21)(A)(ii) regarding investment in such securities.

“(ii) No person who is otherwise a fiduciary shall be liable by reason of any investment advice provided by a qualified fiduciary adviser pursuant to a request under clause (i) if—

“(I) the plan provides for selection and monitoring of such adviser in a prudent and effective manner, and

“(II) such adviser is a named fiduciary under the plan in connection with the provision of such advice.

“(C) For purposes of subparagraph (B)—

“(i) The term ‘qualified fiduciary adviser’ means, with respect to a plan, a person who—

“(I) is a fiduciary of the plan by reason of the provision of qualified investment advice by such person to a participant or beneficiary,

“(II) has no material interest in, and no material affiliation or contractual relationship with any third party having a material interest in, the security or other property with respect to which the person is providing the advice,

“(III) meets the qualifications of clause (ii), and

“(IV) meets the additional requirements of clause (iii).

“(ii) A person meets the qualifications of this subparagraph if such person—

“(I) is registered as an investment adviser under the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.),

“(II) if not registered as an investment adviser under such Act by reason of section 203A(a)(1) of such Act (15 U.S.C. 80b-3a(a)(1)), is registered under the laws of the State in which the fiduciary maintains its principal office and place of business, and, at the time the fiduciary last filed the registration form most recently filed by the fiduciary with such State in order to maintain the fiduciary’s registration under the laws of such State, also filed a copy of such form with the Secretary,

“(III) is registered as a broker or dealer under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.),

“(IV) is a bank or similar financial institution referred to in section 408(b)(4),

“(V) is an insurance company qualified to do business under the laws of a State, or

“(VI) is any other comparable entity which satisfies such criteria as the Secretary determines appropriate.

“(iii) A person meets the additional requirements of this clause if every individual who is employed (or otherwise compensated) by such person and whose scope of duties includes the provision of qualified investment advice on behalf of such person to any participant or beneficiary is—

“(I) a registered representative of such person,

“(II) an individual described in subclause (I), (II), or (III) of clause (i), or

“(III) such other comparable qualified individual as may be designated in regulations of the Secretary.”.

(b) MAINTENANCE OF FIDUCIARY LIABILITY.—Section 404(c)(1)(B) of such Act (29 U.S.C. 1104(c)(1)(B)) is amended by inserting before the period the following: “, except that this

subparagraph shall not be construed to exempt any fiduciary from liability for any violation of this section".

SEC. 602. TAX TREATMENT OF QUALIFIED RETIREMENT PLANNING SERVICES.

(a) IN GENERAL.—Subsection (m) of section 132 of the Internal Revenue Code of 1986 (defining qualified retirement services) is amended by adding at the end the following new paragraph:

"(4) NO CONSTRUCTIVE RECEIPT.—No amount shall be included in the gross income of any employee solely because the employee may choose between any qualified retirement planning services provided by a qualified investment advisor and compensation which would otherwise be includible in the gross income of such employee. The preceding sentence shall apply to highly compensated employees only if the choice described in such sentence is available on substantially the same terms to each member of the group of employees normally provided education and information regarding the employer's qualified employer plan."

(b) CONFORMING AMENDMENTS.—

(1) Section 403(b)(3)(B) of such Code is amended by inserting "132(m)(4)," after "132(f)(4)."

(2) Section 414(s)(2) of such Code is amended by inserting "132(m)(4)," after "132(f)(4)."

(3) Section 415(c)(3)(D)(ii) of such Code is amended by inserting "132(m)(4)," after "132(f)(4)."

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2002.

TITLE VII—GENERAL PROVISIONS

SEC. 701. GENERAL EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided in this Act, the amendments made by this Act shall apply with respect to plan years beginning on or after January 1, 2003.

(b) SPECIAL RULE FOR COLLECTIVELY BARGAINED PLANS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified on or before the date of the enactment of this Act, subsection (a) shall be applied to benefits pursuant to, and individuals covered by, any such agreement by substituting for "January 1, 2003" the date of the commencement of the first plan year beginning on or after the earlier of—

(1) the later of—

(A) January 1, 2004, or

(B) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after the date of the enactment of this Act), or

(2) January 1, 2005.

SEC. 702. PLAN AMENDMENTS.

If any amendment made by this Act requires an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after the effective date specified in section 601, if—

(1) during the period after such amendment made by this Act takes effect and before such first plan year, the plan is operated in accordance with the requirements of such amendment made by this Act, and

(2) such plan amendment applies retroactively to the period after such amendment made by this Act takes effect and before such first plan year.

The SPEAKER pro tempore. Pursuant to House Resolution 386, the gentleman from California (Mr. GEORGE MILLER) and the gentleman from Ohio (Mr. BOEHNER) each will control 30 minutes.

The Chair recognizes the gentleman from California (Mr. GEORGE MILLER).

Mr. GEORGE MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have heard a great deal today and over these past many months about the Enron scandal. I think there is general agreement throughout the halls of Congress and throughout this Nation that it was, in fact, a scandal; that we saw the very worst in human behavior with respect to corporate responsibility, and the responsibility of employers to employees, of the corporation to its shareholders, of the corporation to the general public.

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But this legislation is more than about Enron, because Enron is in bankruptcy. Enron may very well cease to exist as an ongoing financial entity. Its parts are being sold off. Its parts are being salvaged and people are trying to get hold of their lives again after the financial collapse. But Enron was also a beacon of warning to millions of American workers about what their particular situation might or might not be with respect to the security of their 401(k) plan; a 401(k) plan of which the workers are being told over and over again they are going to have to rely on more and more for their retirement because companies refuse to provide a defined benefit plan which would provide them much more security and much more future security with their retirement, something that they could count on.

So what have we learned from Enron? We learned from Enron that many employees did not have control over that part of the stock that was contributed by the corporation. We also found out that many employees were prevented from having any control over that stock until age 50 or 55. But we also found out that that was not unique to Enron. That was true of many corporations, of the Fortune 500 and unnamed corporations that we do not know a lot about, but that was true of them and a holding period for the employees not to divest themselves of the stock. That was done for the convenience of the corporation. That was done because the corporation believed it made their employees more loyal. But when the plans went wrong with their financial future, the company went wrong, we found out that the employees were locked into a situation from which they could not extract themselves.

So this legislation takes the Enron lesson and says we ought not let that happen to other employees in other corporations. So we say that after 3 years of employment, you ought to be able to diversify your 401(k), your 401(k), in a manner which you think is best for your retirement. The 3 years is a maximum period of time which you ought to be able to force the employee to hold onto the stock, because markets move fast, financial markets move fast, and the future of corporations changes all the time. The Repub-

licans do not do that. They have a rolling 3 years. They have a 5-year phase-out. We do not think that that is fair to the worker. We think the worker ought to have that control.

It is interesting now that as corporations review their plans, they are moving toward the Democratic bill. Chevron, in its merger with Texaco, decided that people could diversify immediately. Time Warner decided that people in AOL could diversify immediately. Walt Disney, Gillette, Quest Communications, Procter & Gamble, McDonald's, Coca-Cola, Pfizer, Abbot Laboratories. So this is not a radical approach. People realize this is what workers are entitled to now because the 401(k) is made up, 100 percent, of the assets that belong to the worker.

We also said that if this is the employees' assets, if this is their money, this is their stock portfolio, this is their retirement, maybe they ought to have a say on the board. At Enron we saw that they had no say on the board, that the board was made up of executive vice presidents who did not want to deliver any bad news to the corporation, who when they found out bad news did not tell the employees, did not tell the pension board, went off and privately sold their own stock.

But we have also seen that that has been true in other corporations beyond Enron. We have seen that family members have been selling stock when the corporations are in trouble. Obviously somebody whispered to their son or daughter, "The company is not doing so well, sell the stock."

Why should the employees not have that information? We believe there should be a rank-and-file member on the pension board since the pension represents 100 percent of the employees' money. Research has shown us that where we have rank-and-file members on the pension board, people tend to invest more in their retirement plans and they do a little better on the rate of return. We think that that is important. That is a lesson of Enron that is important for other corporations and for the employees.

We also saw the situation where employers were dumping stock, where Ken Lay was telling people in e-mails that he was buying stock. But he was not really buying stock, he was trading stock and, in fact, he was selling the stock to liquidate the large loans, personal loans, that he had taken from the Enron Corporation.

Again, as we have seen the fortunes of companies change over the last several months in a down economy, in a changed dot-com society, we have seen that many employers have been dumping stock. We think that maybe the employee ought to know that when the corporate heads of the company decide to dump the stock, that they ought to be told about that. Today you can hide that sale of stock for 6 months or a year. Six months or a year can be an economic disaster for the employees if you are caught behind that wave. So

we say when you sell \$100,000 of shares, inform the pension board, inform the employees. What is it that we cannot trust these employees to understand? They will make the decision if they want to also sell their stock, like the CEOs and the FAO of the corporations.

We also decided and we learned from Enron that there was much corporate misconduct, where the employees who were devastated by that conduct had no right to proceed against those people who defrauded them, who had looted the companies. Again, tragically, not unique to Enron, but we have seen the same instances in a number of other corporations, so we said those people ought to be able to proceed to recover their retirement nest egg, to recover their financial future, to recover the plans that they have made for themselves and their families because somebody acted in an illegal fashion.

Today those people can do that. And under ERISA there is no right of recovery, so this is beyond the Enron employees. This is about the millions of other employees who are out there in this same situation.

What else did we learn from Enron? We learned that the employees had one plan, a 401(k) plan, and that the executives had another 401(k) plan. The executives' plan was insured. It was guaranteed. So as Enron goes on the rocks, as it becomes bankrupt, the executives leave with life preservers in the lifeboat. The employees leave with nothing.

We think that if you are going to insure the executives' plan, insure the employees' plan. Both of them are contributing to making the wealth of the company. Both of them are creating the earnings of the company. It is not like the Enron employees were not working hard in this company. They just did not get a chance to be protected like the executives.

So this is really about whether or not we are going to continue to accept a system where we have an elite group of executives that get insured pension plans, get incredible compensation, are able to buy multimillion-dollar homes in Florida or in Texas that are exempt from bankruptcy, that can have insurance plans that guarantee a payout, and then there are the employees who go to work every day, who build the financial future of the company, who do the job for which they were hired and can be left with nothing.

This really is about equity. This is about fairness. This is about what we owe the workers in these companies. Mind you, these very same companies made a decision that this was really good for the executives, for the top corporate elite, that these were all good things to do. But now when you suggest that maybe you should do them for the employees, for the rank-and-file people who are on the line working every day, that somehow it is radical or it is un-American or it is against the free enterprise system.

I think President Bush got it about right. In his first public statement after the Enron case down in North Carolina, I believe it was at a naval base, he said, "What is good for the captain should be good for the sailor." That is what the Democratic substitute says. It says that we ought to recognize the dignity and the hard work of the employees and they should not be put in a position of disadvantage. They should not be put in a position where they could lose everything when the executives are in a position of losing nothing. That is a very important principle. It is a very important principle for this Nation. The President recognized it, but the Republican bill does not.

The Republican bill concentrates on getting the employees better investment advice, and that is a good idea. Clearly, even the Enron employees did not understand the real value of diversification. So good investment advice makes sense as people are trying to plan for their retirement. We believe that that advice should not be conflicted. The Republican bill does not provide for that kind of protection.

We recognize, as we have seen, where Arthur Andersen was deeply conflicted between the commissions it was making on consulting from Enron and auditing the books they were presenting to the public, to the shareholders, and to the employees about the health of the company.

We have now seen all of the labyrinth of commissions and fees and financial arrangements that had distorted the financial marketplace, the most recent of which is Merrill Lynch, where Merrill Lynch was seeking to make millions, tens of millions of dollars as an investment bank, but it was doing business with the same people whose stock it was touting, so it did not want to say "don't buy ABC stock" when it was trying to negotiate a commission worth tens of millions of dollars, so it had its people keep saying "buy ABC stock" and even those people said, "That is lousy stock. It's no good." They were conflicted.

Yes, investment advice is good, but it ought to be independent. It ought to be independent of those commissions, of those holdings, of those conflicts. And they run throughout the financial markets.

If America got any lesson from Enron, through Arthur Andersen, through Global Crossing, through so many others, they learned that there really are two systems; a system for the privileged, for the elite, for the executives, and another system for the employees who are investing in these companies.

That is why we have introduced the substitute, because half of the Republican bill is missing. Yes, it deals with investment advice, but it does not deal with the lessons of Enron. It does not deal with the peril of millions of Americans who are leaning very hard on their 401(k) to help provide for their re-

tirement. It does not deal with the unethical behavior of corporate executives who are not in Enron. It does not deal with the ability of corporate executives to hide their transactions from their employees and from the investors. And it does not deal with the fairness of the treatment of those two parts of the corporation.

The Democratic substitute does it. It does it in a way that does not place a burden on the system. It is really about disclosure. It is really about fairness. And it is making sure that as we walk away from the Enron disaster, that we really in fact have changed the manner in which we are doing business to make sure that there is fairness in treatment and there is protection for the American worker. The bill as presented to us today is incomplete in that fashion. The Democratic substitute will complete that part of the story, to provide that kind of protection for the American worker.

I will hope that our colleagues in this House on both sides of the aisle will embrace this substitute and discharge their obligation that we have to provide for the retirement future and protection of the American worker.

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

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

As I said earlier, with all due respect to my colleagues, some on the other side who believe that the base bill before us does not go far enough, I would argue that the proposal offered by my good friend, the gentleman from California (Mr. GEORGE MILLER), does in fact go way too far.

Let me point out several of those differences. As the gentleman said, when it comes to company-matched stock in a 401(k) plan, companies today can require you to hold that until such time as you retire, not allowing you to take the company match and to convert it into some other type of stock or bond, or cash for that matter, within the account. And so the gentleman from California has a 3-year limit that would go into effect at the signing of the bill, but after that there is no holding period at all.

□ 1430

The underlying bill, beyond the 5-year phase-in, has a 3-year rolling average. Any new matched company stock, the maximum it could be required to be held by the company is 3 years. Many employers are already doing it on their own, doing 1 year, doing quicker time frames.

But why do we have a 3-year rolling average? Because we do not want to discourage companies from offering the company match that many do in stock today. They find that this is a perfect way of trying to retain employees, to encourage employees to stay with the company. And I am concerned that in a proposal similar to the one the gentleman from California (Mr. GEORGE MILLER) is proposing, that many employers would in fact eliminate the

match of company stock that they do today. We do not want to do anything in this bill that would hurt the ability of employees to maximize their employment security.

Another problem we see with the substitute being offered is that we expand remedies. We expand more remedies, more lawsuits for those who may have just made a mistake. I am not talking about criminal behavior here, we will get into that in a moment. But to expand remedies is a nice big red flag for employers that says, if you open a pension plan, you are going to be opening yourselves to expanded liability.

What that is going to do, plain and simple, is discourage, especially small companies, from setting up a pension plan for their employees, at a time when we have worked for years here to try to encourage more employers to offer these plans to their employees. I think there are sufficient remedies today within ERISA and within the code, and expanding those remedies at this time I think is a very big mistake.

Let me also say that the substitute creates criminal penalties that do lead to personal liability again for mere mistakes that someone might make. Again, there is another red flag. If I am an employer looking at setting up a plan or maintaining my plan, why would I want to open myself up for the possibility of criminal wrongdoing if I made a mistake in the administration of my plan? Again, I think we have sufficient remedies today within ERISA to deal with this.

One of the other issues that the gentleman from California (Mr. GEORGE MILLER) talked about is the fact that corporate executives have insured plans and 401(k) plans are not insured. Now, we are dealing a little bit here with apples and oranges, because when it comes to the corporate governance issues, it is controlled by another committee, and we are strictly dealing here with ERISA and with the Tax Code and with pension issues.

But one of the issues that is in the gentleman's bill is he would require liability insurance for the full value of all of the 401(k) accounts within the company. Now, if you want to talk about a staggering bill that would discourage employers from setting up 401(k) accounts, here is probably the single one big issue that would stop them cold in their tracks. They would say, listen, if I have got to buy an insurance policy for several hundred million dollars, do I really want to have 401(k) accounts?

The last issue I would like to talk about, though, that is of great concern to all of us is the issue of investment advice. We have some 50 million Americans today who have self-directed 401(k)-type of accounts. We all know that they need good, solid investment advice that meets their particular needs. So both sides have the issue in their bill.

But the difference here is very simply this: There are two issues that have to

be dealt with to get more investment advice into the marketplace. One, we have to do something about employer liability, and both the Miller substitute and the underlying bill, the Pension Security Act, deal with protecting employers from liability, other than they have to exercise their fiduciary duty in hiring a good investment advisor.

But the second issue is this: It says if you sell products, you are prohibited from giving investment advice. Now, the idea here is to get more investment advice in the marketplace, and under the Miller proposal they would have to go get independent third-party advice. It is well-meaning, well-intentioned, but very expensive, and, I would add, most employers are not going to ever go down that path. My point is, we will end up with very little investment advice in the marketplace.

Under the underlying bill, we say you could go out and get independent advice if you like, or you could have those who sell product set up investment advice under these conditions: You have to disclose any potential conflicts; you have to disclose any differences in fees between the products that you are selling; you have to do this at the same time commensurate with the giving of the advice; and, above all, you are required to be held to the highest fiduciary duty in the giving of that advice, which means that when you give the advice, it has to be solely in the interest of that employee, and there are penalties if you violate any or all of those.

We believe what this will do is to bring more investment advice into the marketplace in a much quicker way and cover far more employees. As a matter of fact, the House thought this was such a good idea last November, before we knew what we know today about Enron, that the House voted 280 to 141 to support the exact investment advice bill, virtually the same investment advice bill, that is contained here.

So I would say to my colleagues on both sides of the aisle, my Democrat friends are as concerned about this as we are. I do in fact believe that if we were to adopt the Miller substitute, that we would in fact limit the ability of employers to set up plans, we would discourage employers from setting up plans, and we would see companies fold up their plans. I do not think that is what we want to do at this day and hour.

We should be looking at how can we secure the retirement security for more American workers, how we can expand the number of workers covered by high-quality retirement plans, and not go in the other direction.

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

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). Without objection, the gentleman from New Jersey (Mr. ANDREWS) will be recognized to control the time in favor of the amendment.

There was no objection.

Mr. ANDREWS. Mr. Speaker, I yield myself 3 minutes in support of the Miller substitute.

Mr. Speaker, there is some confusion on the issue here of the competing proposals and how long someone is required to hold shares of stock contributed by an employer when that is the employer stock. I want to be very clear: The proposal that we support, the Democratic substitute, does call for a 3-year period, not a 1-year period as some groups outside of this body are alleging. It is a 3-year period.

The Republican proposal, the underlying bill though, I want to be clear about what it means to a person who is in a 401(k) plan that has her or his employer's stock matched in that 401(k) plan. Under the underlying bill, it would be 5 years before an employee could completely divest himself or herself of that stock. So here is what this means: If you were working for a company and the company put matching shares of its stock into your 401(k), and the company started to slide downhill the way Enron slid downhill, and you decided the best thing for you to do was to get your retirement fund out of that stock, get it out of there so that you would not be losing your pension, under the Republican bill that we are amending it would be a 5-year process, 5 years, before you could get all of that stock out. It is phased out 20 percent, then 40 percent, then 60 percent, then 80 percent.

I do not see why people should be required to wait 5 years. Next week will commemorate the anniversary of the sinking of the Titanic, April 15. The Republican proposal reminds me of the Titanic in this respect: When the Titanic was sinking, the wealthy people got off the ship in their lifeboats and the working class people were locked down below in steerage, unable to get off the boat as it was sinking. That very unfortunate proposal is carried out in the underlying bill.

Frankly, there are those of us that believe 3 years is far too long, but in an attempt to compromise, to make sure we could draw as many people to support the proposal as we could, the Democratic plan talks about 3.

I do not want any confusion about the fact that the bill that we are amending, the underlying plan, calls for at the beginning of the plan a 5-year period before someone can get completely off that sinking ship. That is wrong, and that is another good reason to support the Democratic substitute and oppose the underlying bill.

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent that 15 minutes of the time in opposition be given to the Committee on Ways and Means and controlled by the gentleman from Ohio (Mr. PORTMAN).

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

There was no objection.

Mr. BOEHNER. Mr. Speaker, I yield 4 minutes to the gentleman from North

Carolina (Mr. BALLENGER), a long-term member of the Committee on Education and the Workforce.

Mr. BALLENGER. Mr. Speaker, let me just say I rise in support of the base bill and in opposition to the Miller-Rangel substitute on the grounds that it would oppose a host of new government regulations that will drive businesses out of offering, and I emphasize the word, voluntary retirement savings plans.

I happened to be in a situation in 1950 in my company back home where we had an employee that had worked for the company for 30 years and decided to retire, and I found out at that time, I did not realize much about the way things went, I realized that this gentleman after 30 years with me had only his Social Security to count on. So what I did is I put into our company at that time a defined benefit plan that was going to take care of all the employees, some retirement and so forth. This whole situation, to my way of thinking, was a fabulous thing. We should take care of employees.

All of a sudden, somewhere down the road we ran into the fact that the government's regulations were coming along and it appeared to me I was not trustworthy of Uncle Sam, so what I did is I liquidated the whole pension plan and gave the employees all the money and started over again. And we ended up with a 401(k) and an ESOP right now, which I realize the ESOP is not involved in this. But I want you to know, I got out of this pension plan even before I knew about trial lawyers or fiduciary responsibility.

The Democrat substitute creates a new resource for trial lawyers to line their pockets by increasing the liability exposure of employers, administrators, service providers to an ill-defined and uncapped damage. From the CEOs to the middle managers and those who have no control over the plan's investment decisions, they could be personally liable for losses in their retirement plan, and these men and women who are sued for something out of their control could be forced to pay damages beyond the lost value of their retirement plan. Current law allows Labor, Treasury and the Justice Department, as well as affected individuals, to take actions to recover damages from a plan.

Additionally, the Democrat substitute would extend this unlimited right to sue to all ERISA plans, including retirement, health, disability, all of these plans, as well as reducing the availability of retirement plans. This amendment would destroy the current system of employer provided health insurance, leaving millions of Americans uninsured.

The Miller-Rangel substitute would force every fiduciary to a defined contribution plan to have insurance themselves in case there was a breach of fiduciary duty. I do not know how many of you have looked at the cost of that insurance, but today it is unbelievably

expensive. However, mandating each individual fiduciary to have his or her own insurance would be redundant and costly, and, once again, these costly, unneeded measures would discourage employers from offering retirement plans.

Finally, the substitute would mandate that retirement plans include an employee representative on the joint board of trustees. What employee can you find that would be willing to serve on a board when he knew he was going to get sued? That is an interesting situation.

This is already allowed under ERISA, and some employers do it. This mandate would increase administrative burdens on employers, and since ERISA currently requires that plan administrators act solely in the interest of participants and beneficiaries, what is the benefit of mandating an employee to join the Board of Trustees? There is not one, but it does add a substantial burden.

While I believe the government has a role in protecting employees' retirement plans, I cannot support a massive imposition of Federal regulations that will destroy the incentive for employers to offer retirement plans. I urge a "no" vote on the substitute amendment and a "yes" vote on final passage of H.R. 3762.

Mr. ANDREWS. Mr. Speaker, I yield 3½ minutes to the gentleman from New Jersey (Mr. PAYNE), who is a strong voice for workers both in New Jersey and around the country.

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

Mr. PAYNE. Mr. Speaker, let me thank the gentleman from New Jersey for yielding me time and commend him for the outstanding work that he did on the subcommittee handling this very important Pension Security Act.

There are, in my opinion, defining financial points in every decade. In the seventies we suffered a gasoline shortage, where long lines disrupted the daily lives of American people and lost productivity ensued.

□ 1445

In the 1980s, there was the savings and loan debacle where greedy investors and unscrupulous brokers went away with billions of dollars of Americans' money. In the 1990s we suffered a recession where the market dropped. However, we bounced back because President Clinton and his great program in the early 1990s cut \$250 billion of spending and another \$250 billion to the 1 percent of the top earners in the country, and that \$500 billion put us on to a projected \$5 trillion surplus over the years. However, we have seen that wilted away by the new administration.

In this decade, it is safe to say that the Enron debacle will go down in the books as an example of deception and mismanagement and which has ruined the lives of thousands of people. That is the human side that we do not see.

What have we learned from this tragedy? How can we protect ourselves from a recurrence of the financial disasters of this magnitude? By not supporting the Republican bill. Why? Because their bill fails the American people. Because they create new loopholes and a relaxed requirement. Their bill lacks real teeth to hold companies accountable. It fails to hold plans accountable, and it fails to provide real diversification in plans; and it fails to give employees' notice when companies are dumping company stock, and it continues to give preferential treatment to executives.

The Democratic alternative provides real pension reform. How? By, one, including strong criminal penalties for executives who engage in mismanagement and abuse, by requiring notification of employees when executives are dumping company stock, and ensuring that employees receive honest and timely information about their pensions from unbiased, independent financial advisors, and it gives employees a voice on pension boards.

During the markup in the Committee on Education and the Workforce, the Democrats offered amendments, amendment after amendment, which would strengthen the current law that would protect the American workers, holding their hard-earned savings to their own portfolio, which were denied. Because the bottom line is, this is their money, and the employees should have more say over it.

It appears to me that the Republican bill serves the interests of corporate executives rather than the rank-and-file employees who lost billions of dollars of their retirement savings. There must be an end to this giving special treatment to executives while employees suffer. Enough is enough.

Support the Democratic substitute, which seeks to correct loopholes, shifting less risk on our workers, putting more control of their money in their hands. Support the substitute which provides unbiased, independent advice, a parity of benefits for all employees, representation on pension boards, and tougher criminal enforcement.

We can all agree we cannot let this happen again. The Miller-Rangel bill seeks to correct the loopholes, shift less risk to our workers by putting the control of their money in their hands. Stop favoring executives, and let us protect our workers. Support the Democratic substitute.

Mr. BOEHNER. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. NORWOOD), the chairman of the Subcommittee on Workforce Protections.

Mr. NORWOOD. Mr. Speaker, I thank the gentleman for yielding me this time. I strongly support the underlying bill, and I ask my colleagues to vote down the Miller substitute. There are many reasons to do that. We have heard many of them this afternoon. I would like to focus in on just one area.

Mr. Speaker, this substitute is a classic case of putting the fox in charge of

the hen house. Believe it or not, their substitute would make union officials trustees of any savings plan that is given to workers they represent. This will jeopardize hundreds of billions of dollars in workers' savings.

Just blocks away from this House, just a couple of blocks, a Federal grand jury is determining whether a dozen or so union presidents violated their fiduciary duties by inside trading of stocks tied to Global Crossings Corporation, in which they have invested workers' pensions through union life insurance companies. Meanwhile, workers were losing billions from the bankruptcy of their company. This substitute will turn private savings of union workers over to these same leaders.

As chairman of the Subcommittee on Workforce Protections, I can tell my colleagues that this country is suffering from what The New York Times reports is a wave of union corruption. Just yesterday, I heard testimony about the embezzlement of millions by New York City's largest public employee union. I heard about workers who only make \$20,000 a year forced to pay dues of \$700 a year, which was then used for penthouses, maid services that were really male prostitutes, clothing, overseas trips, Super Bowl tickets, topless bars, and it goes on and on. Do we really want that same crowd to get their claws into the individual savings of these workers? I do not believe any of us would want to do that.

As some of my colleagues know, I raised a few chickens on my place back in Georgia. I have had dogs on that property, and I love them very much. However, I would never let my dogs start eating my chickens. It would naturally be rough on the chickens, and the dogs would never hunt again.

Now, I know my Democratic friends love the support they get from labor leaders. I know they want to feed them any chance that they can get. But please do not feed them the savings of hard-working American families. It is bad for the dogs, and it is murder for the chickens. Friends, that dog has already got feathers on his snout that look a whole lot like pension money.

I urge my colleagues to vote down the Miller substitute.

Mr. ANDREWS. Mr. Speaker, may I inquire as to how much time our side has left.

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). The gentleman from New Jersey (Mr. ANDREWS) has 9½ minutes; the gentleman from Ohio (Mr. BOEHNER) has 30 seconds remaining; and the gentleman from Ohio (Mr. PORTMAN) has 15 minutes remaining.

Mr. ANDREWS. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Speaker, I appreciate the gentleman's courtesy of yielding me this time.

I have been listening in disbelief to the testimony here before us today. I represent as many Enron survivors as probably almost anybody in the House,

and I have heard people ask, Could we find some workers that would be willing to serve on the board? I will tell my colleagues, they are lining up in Portland, Oregon. They would love to serve. I have heard people who are concerned about the trial lawyers being involved. Well, the trial lawyers did not create the problem in Portland; but I will tell my colleagues, there are lots of Republicans lining up to hire them to try and salvage a little bit of their dream.

Today's Republican pension bill I think falls far short in an obviously flawed pension system. I support the substitute.

The chairman of the committee referenced the act that we passed last fall before we knew about some of these abuses dealing with conflicted investment advice. Well, I will tell my colleagues, it was wrong last fall; and if the Members on this floor knew of the abuses and the problems, I do not think it would have passed then.

It is critical that we provide true security for retirement savings, that we hold corporate executives accountable for their actions, that we give employees some mode of control over their own retirement dollars, that we give them a voice. God forbid that there be as many employee representatives as employer representatives. I am not afraid of that; and I will tell my colleagues, the people in Portland who have been brutalized by this system, I think they would find it to be a great, great proposal to put into effect.

I will tell my colleagues the pain that I have witnessed firsthand with people who have had to delay their retirement, who have had their family's dreams shattered; and being disillusioned as a result of this is impossible to be able to give voice to. But thankfully, some of these witnesses have come to Washington, D.C.

Mr. Speaker, I would just say that it happened in Portland, Oregon; and it can happen anywhere. That is why we need to support this substitute.

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

I think the gentleman addressed the concerns, and all I can say is the underlying bill does address them. If you are an Enron employee, you had to hold that stock until you were 50 years old. What this underlying bill says is, you cannot do that anymore. A company cannot require that the employee hold the company-matched, it goes into a 401(k), until the employee is age 50. In fact, you cannot do it for more than 3 years. There is an initial 5-year period where you can unload 20 percent per year so you do not disrupt the markets; and after that point, you cannot hold an employee with the corporate stock for more than 3 years. The handcuffs are off. That is a big change.

Under current practice, you can hold somebody until they retire. You can hold them for 40 or 50 or 60 years. It also provides more education, and this is extremely important. I think there is a consensus on that among people in

this area, on the outside and people here in Congress, that we have to provide people with better tools so that they can make better decisions once they have been given more flexibility and more choice. We have disagreed here on the floor as to what kinds of tools those should be; but I think we agree, for the most part, that we ought to be getting people more advice.

There are three ways this bill does that. First, it says that every time someone gets into a plan, they have to be given a notice saying you must look at your portfolio and you should diversify; in retirement, you should not have all of your eggs in one basket. It also says that on a quarterly basis, you get a report as to what is going on in your plan. That is not currently required. None of these are. It also says, under commonly accepted investment practices, you should diversify, in plain English.

Second, it lets employees, on a pre-tax basis, pay for investment advice. That is not currently available. It could be like a cafeteria plan or like an eye glass plan or a health plan or a pension plan. It lets employees have a tax preference to go out and get investment advice on their own. They can choose whoever they want. That is expensive. That is one reason why people do not seek it. That is what the surveys show. So we are trying to help people.

Finally is the investment advice piece that passed this House last November with 64 Democrats supporting it, and that piece says the company should be able to bring in people who are certified, qualified, who disclose any potential conflict of interest, who have a fiduciary responsibility to only do what is good for the workers; otherwise, they face penalties, and those people offer advice. That is a pretty practical way to do it, because some companies will be willing to pay for that and offer it. We want to encourage that.

If we really believe education is a problem, and I think most of us do, we have to do something that is going to address it directly and that is really going to work in the real world. I think this substitute and the proposal there would not work nearly as well in the real world because I do not think employers would take advantage of it.

Finally, we provide a lot more information in this bill. We tell people when there is a blackout period. Right now there is no requirement for that. Thirty days before a blackout period, and now you have to have a notice. That is going to help people who are stuck in a situation like the Enron scandal.

So this is much more than Enron. It affects 55 million Americans who are in defined contribution plans, particularly those who are in a plan where you can get some corporate stock as a match, which is not the majority of plans, unfortunately, because we want these plans to be generous; but it will help millions of Americans, and it

would have helped people who were stuck in the Enron situation. It would have helped them.

Someone said that there is not adequate protections in here or there is nothing in here relating to what is good for the goose is good for the gander or, as someone said earlier, the captains ought to abide by the same rules as the sailors. Well, there is. First of all, if you are a captain or if you are a goose, and you have something of a 401(k) plan, you have some assets in a 401(k) plan, you are treated like everybody else. You are subject to the same blackout notice, the same blackout period where you cannot trade.

The question is, what if you have stock outside of the 401(k)? Should you have an additional requirement for those employees of a company, senior executives or not, who have stock outside; and we say, yes, you should. If half or more of the people in a company are affected, as was the case of Enron, then you cannot trade during a blackout period, even though your stock has nothing to do with a 401(k) plan. That is a big change from current law. I think that needs to be clear.

We are doing things that change structurally the way we deal with pensions in this country. Not every business is happy about this, but we have tried to achieve a balance. Because at the same time that we are providing more protections for the workers, information, education, disclosure, accountability, all equaling more retirement security, we are also very sensitive to this balance. Remember, there are 42 million Americans in 401(k)s, 55 million Americans in other kinds of plans. When we add them all up, there is \$2.5 trillion of assets in these plans. We do not want to do harm to these plans. More important, there are 70 million Americans, half the workforce, who have no plan at all. They do not have anything.

□ 1500

They do not have a 401(k). They do not have a SIMPLE plan, a SEP, or any retirement savings through their employer.

The whole goal of this Congress over the last 5 years has been to expand pensions to those people. Where do they work? In small business, that is where the great bulk of them are; in small businesses, businesses that do not have a lawyer, they do not have an accountant, they do not have somebody to go through this maze, with the burdens, the costs and burdens and liabilities of pension plans. That is the real world.

That is why, on a bipartisan basis, this House has acted, with over 400 votes on this floor, to pass legislation to expand pensions to these smaller employers by cutting down on the costs and burdens and liabilities.

The alternative we are looking at here, the substitute we are debating right now, increases costs, burdens, and liabilities. In fact, it makes people personally liable for decisions that

they have no control over with regard to pensions.

Now, if one is a small business person and is trying to decide how to get into this business of offering pensions, and is worried about the costs, burdens, and liabilities, and now you discover you could have a criminal liability, a personal liability, more costs, more burdens, what are you going to do?

Mr. Speaker, it is a voluntary system. We need to provide incentives. All the surveys show that. They all show the same things: Small businesses are going to get into providing pensions and the pension coverage we want them to provide only if it is easier, less expensive, less burdensome, and has less liability. That is the direction we ought to be going.

So we do have a balance here. We do provide the employees more rights and protections, and we think that is appropriate, but we do not go so far as to discourage those people who are already offering plans, and again, more importantly, to discourage those that might be interested in getting into the pension business now that we are offering higher contribution levels, more protections, lower costs and burdens and liabilities.

We cannot go the wrong way here. We cannot go too far. My concern is that the substitute does go too far.

Remember, in 1983 there were 175,000 defined benefit plans in this country. Those are the good, guaranteed plans. There were 175,000 of them; today there are 50,000. This Congress has, over time, added costs and burdens and liabilities to those plans to the point that most employers throw up their hands and say, I am not going to offer them anymore.

We did things last year in this Congress to encourage defined benefit plans. We increased the limits, made it easier to offer them. But we do not want defined contribution plans, the 401(k)s, to go the way of the defined benefit plans, do we? Do we not want more pension coverage? In a voluntary system, we ought to do everything we can to encourage them.

There are a couple of provisions that I see in the substitute that I am concerned with. Why should internal dispute resolutions be prohibited? Employers and employees alike like that, public and private sector alike. Why increase litigation costs? Why increase litigation? I do not get that. Why would we want to vote for a substitute that has increased litigation, increased costs?

Second, there is an amendment in here, well-meaning, trying to close a loophole, by a colleague of mine in the Committee on Ways and Means, not vetted. It is a brand new amendment. It did not even come up in committee. The one that came up in committee was a different amendment. It has to do with those deferred comp plans that are not qualified plans. The Treasury Department has not even looked at it. We have not had a hearing on it.

I would urge my colleagues not to move forward with this amendment until we have a chance to look at it and see what effect it would have. We do not want to, by trying to protect workers, create additional problems that will lead to less retirement coverage.

So the underlying bill has important structural changes: more information, more education, more choice, more security, more accountability. The substitute, while well-meaning, goes too far and strikes the wrong balance. This Congress ought to be working to expand retirement security, not to decrease it.

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

Mr. ANDREWS. Mr. Speaker, I am pleased to yield 2 minutes to the gentlewoman from California (Ms. WOOLSEY), a valued member of the Committee who has valuable experience as a human rights executive.

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

Ms. WOOLSEY. Mr. Speaker, I am a member of the Committee on Education and the Workforce, and I can tell the Members that this Republican Pension Security Act of 2002 will not make retirement secure for the majority of employees. Instead, it allows a two-tiered retirement system that gives top executives, the captains, special benefits and protections while leaving their employees, the crew, to fend for themselves if the company has troubled times. That is plain wrong.

Our President has agreed: What is good for the captain is good for the sailor; or what is good for the captain is good for the crew.

I introduced an amendment during the committee that would ensure that all of the crew have the pension parity, exactly the same as their captains. Every Democrat on the committee voted for my amendment for parity. Every Republican opposed it.

This Republican bill leaves employees that are seeing troubled times with their firms at the end of the line when it comes to collecting retirement benefits, while the captains, those like Kenneth Lay from Enron, do not even have to get in line. Their benefits are paid for up front in full.

The Miller substitute makes pension benefits for the rank and file, for the crew, as secure as for the executives, the captains. It is real pension reform, and we must support it.

Mr. PORTMAN. Mr. Speaker, I yield 2½ minutes to the gentleman from Illinois (Mr. WELLER), my colleague on the Committee on Ways and Means.

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

Mr. WELLER. Mr. Speaker, I rise in opposition to the substitute, and, of course, I support the bill that is being managed and offered by the gentleman from Ohio (Mr. BOEHNER) and the gentleman from California (Mr. THOMAS)

and the gentleman from Ohio (Mr. PORTMAN) today.

We have had a situation in our country that we are all concerned about. The situation has been illustrated by Global Crossing and by Enron, and we have heard those names in the debate today. Because of that, it reinforces a goal we have been working on in this House, and that is to work to provide safe and secure retirement opportunities for the men and women who work in America.

We have made a lot of progress in the legislation we have passed out of here. This legislation before us today, the base bill, the Pension Security Act of 2002, is a real solution towards concerns that have been raised by the so-called Enron and Global Crossing problem. In fact, the base bill provides worker security and pension security.

Let me express some concerns about the substitute that has been offered by the gentleman from California (Mr. GEORGE MILLER) and the gentleman from New York (Mr. RANGEL). While I have great respect, I know they are well-intentioned, I do not believe they are trying to be partisan and political, but I believe what they are offering is pretty radical. It is an attempt to offer a so-called solution which is way overboard, and in the end would actually reduce retirement savings opportunities for workers, particularly because, while maybe not intended, this legislation would actually discourage small business from providing retirement savings. The increased liability and damages that would result would push employers out of providing retirement benefits. Again, that is anti-small business.

Also, I just do not understand why, in the substitute that has been offered, something that both Democrats and Republicans have both agreed upon, that workers and employers have agreed upon in the past, that the substitute actually bans and prohibits alternative dispute resolution when there is an argument over pension benefits or how they are being operated.

Why would anyone want to do that? The only ones who benefit by banning alternative dispute resolutions are lawyers. Why do we want to create more litigation, when I think everyone in our society agrees there is too much litigation today?

The bottom line is, the Pension Security Act of 2002 is good legislation. It is bipartisan. It is put together very thoughtfully over a period of time, recognizing there are challenges and we need to offer solutions.

Let us do the right thing, Mr. Speaker, and let us reject the substitute and support the Pension Security Act of 2002 with a bipartisan vote.

Mr. ANDREWS. Mr. Speaker, it is a pleasure to yield 2 minutes to the gentleman from Michigan (Mr. BONIOR), our former majority whip and one of the leading voices in America for minority rights.

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

Mr. Speaker, I rise in strong support of this Democratic substitute that is being offered by the gentleman from California (Mr. GEORGE MILLER) and the gentleman from New York (Mr. RANGEL) and others.

What we are talking about here today are the real lives of working people. This is about valuing and respecting a person's labor. It is about honoring a commitment. It is about keeping trust.

It is not just about Enron employees. In my home State of Michigan earlier this year, the auto supplier DCT laid off its last 400 employees with 30-minute notices, and then locked them out of their 401(k)s. The collapse of DCT hurt not only the DCT employees, but also the city workers in the city of Detroit, whose pension fund lost \$32 million in DCT investment.

Our pension laws are too outdated to protect people. They are too weak to protect the K-Mart workers all across this country who now face uncertain futures. They are too weak to protect our R&R workers up in northern Michigan, in the Upper Peninsula, in the Mesabi Range, who are losing their benefits due to the flood of cheap steel into our country.

Pensions ought to be sacred. They ought to be a symbol of a trust between a company and a worker. By the way, I would say to my friend, the gentleman from Georgia (Mr. NORWOOD), we would not have pensions if it was not for unions, let us make no mistake about that, for workers.

Pensions are not handouts, they are something people earn. One of the worst things that could be done to a worker and their family is to take their pension away. People dream about their pension at their work site, in the factory, in the office, on construction. They think about getting to that point in their lives when they can enjoy their pension. And then to yank it from them, to take it, to pull it out from underneath them, to deceive them, to break that trust, to break that commitment, is the worst thing anyone can do.

This Democratic substitute is the right substitute. I urge my colleagues to support it.

Mr. PORTMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona (Mr. HAYWORTH), a member of the Committee on Ways and Means.

Mr. HAYWORTH. Mr. Speaker, I thank my colleague, the gentleman from Ohio, for yielding time to me.

I appreciate the words of my friend, the gentleman from Michigan, who preceded me in the well. Would that this substitute from the other side, would that it in fact concentrated on workers.

I do not dispute a thing that my friend, the gentleman from Michigan, said about the desirability of pension plans. Indeed, the bill we offer has an opportunity to expand pension plans on into small businesses, opportunities for businesses with as few as 25 employees.

The problem with the substitute is that instead of being pension protection, it is a trial lawyer's bonanza. The language in this substitute would authorize suits to recover unlimited damages alleging economic and non-economic losses, and welcome to the litigation bonanza.

Should pensions be protected? Absolutely. But if we want to help working people, we want to expand the pension pool. We want to set up new opportunities for small business to go into these pension plans to do the very things my friend, the gentleman from Michigan, talked about.

We do not want an economic bonanza, or, sadly, and I am sure it is not the intention of my friends, but one can almost see a situation where we would have an economic bonanza and the equivalent of whiplash, whiplash.

Look, we are talking about people's lives. It is precisely because of the dignity of work and the opportunity that retirement brings, and their hopes and dreams, that we do not want to see funds jeopardized by unlimited liability and damages that enrich only the trial lawyers' lobby and does nothing to help working people. That is the choice we have to make today.

Mr. Speaker, we have a bipartisan piece of legislation with many commonsense remedies that people on both sides of the aisle have championed. Do not sacrifice that for a substitute that enriches the trial lawyers' lobby. Reject the substitute and go with our bipartisan plan.

Mr. ANDREWS. Mr. Speaker, I am pleased to yield 2 minutes to our ranking member, the gentleman from California (Mr. GEORGE MILLER), the author of the substitute and a tenacious fighter for workers across America.

Mr. GEORGE MILLER of California. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, the gentleman who just preceded me in the well might be interested to know that this year, the man of the year of the American trial lawyers is going to be Ken Lay. He has developed more business than any single American in the history of the country.

A lot has been talked about about investment advice. We all agree that investors need to know more about planning for their security. But it is interesting that when Jane Bryant Quinn, the financial writer for Newsweek Magazine, looked at the investment advice bill in light of the Enron scandal, she yelled, "Help, I am scared for my 401(k)." Post-Enron, how could anyone even think of creating such a conflict of interest that is in the underlying bill? You might as well turn the system over to the ice skating judges, because that is the situation you have.

We have the very same people who are making millions, hundreds of millions of dollars in Commissions and fees as investment bankers providing retail advice to people who are trying to plan for their retirement, the average worker.

□ 1515

And they are being told on the level, this is a good investment. But, in fact, what we know is they are making that decision based upon the millions of dollars in fees, not the best interests of the investor. This is really about whether or not we are going to treat the corporate elite and the workers the same.

It is a radical notion in the Republican Party that workers would have some say in their own retirement; that workers would be warned when the corporate elite are bailing out of the corporate towers; when the corporate elite are selling their stock. A radical notion that the workers at Enron and other corporations would be told of that. But we should expect that; we saw that in committee.

The Wall Street Journal said it best: "The Republican-led panel rejected a dozen Democratic amendments which would have offered workers greater protections and improved stricter rules on employer-sponsored 401(k)s and other defined contribution plans." Yes, they had a chance to help out workers, to give them notice when the big shots are selling their stock; to give them a say in the control of retirement funds that belong to them, it is 100 percent of their assets; to make sure that they had the same rights as the corporate elite. But the Republicans have not seen fit to do that. You can support the Democratic substitute, and you can make sure that the workers after Enron have more protections than they had before.

Mr. PORTMAN. Mr. Speaker, I yield the balance of our time for purposes of control to the gentleman from Ohio (Mr. BOEHNER), the chairman of the Committee on Education and the Workforce.

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). Without objection, the gentleman from Ohio (Mr. BOEHNER) will control the remainder of the time and has 2¼ minutes remaining and will have the right to close. The gentleman from New Jersey (Mr. ANDREWS) has 2 minutes remaining.

Mr. ANDREWS. Mr. Speaker, I assume we have the right to close.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. BOEHNER) has the right to close.

Mr. ANDREWS. Mr. Speaker, I yield the balance of my time to the gentleman from California (Ms. PELOSI), our dynamic leader, the highest woman elected in the history of the House of Representatives.

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding me time and for his leadership and kind words.

Mr. Speaker, an extremely important matter is before the House today. Nothing short of pension security of America's working families is at risk. We all agree that this is a very, very complicated issue; and we also agree that we want to maintain confidence in our financial systems in the decisions we make today.

That is why it is so very regrettable that the Republicans have brought an irresponsible proposal to the floor. Every day it seems Republicans are dragging another Trojan horse on to the House floor, a horse that has some nice features but covers up the dangers within.

I tell my colleagues, beware of Republicans bearing gifts. A vote for their bill is a vote to weaken existing law by giving employees biased and conflicted advice without access to an independent alternative.

A vote for the Democratic substitute empowers workers; and it means giving them control of their investment, accurate investment advice, representation on pension boards to protect their interests, and notification when executives are dumping company stock. It also means holding plans accountable through tougher criminal penalties for misconduct and the ability of employees to collect damages when they are misled. The Republican bill fails on all of these counts.

A comparison of these two bills makes it very clear that President Bush was right when he said, What is good for the captain is good for the crew.

Let us follow that advice of President Bush and give employees control of investments of their nest egg and a voice on their pension boards; give employees the opportunity to be notified when executives dump company stock; give employees the right to be protected from conflicts of interest when receiving investment advice. And on that score, the Republican proposal not only fails, it is regressive. It is regressive. It makes matters worse for American workers and their pension funds. It gives employee and executive plans exactly the same treatment, employees and executives exactly the same treatment. And it gives tougher penalties for company misconduct.

The Republican bill, on the other hand, gives no control, no voice for employees over their own nest egg. It allows for conflicts of interest in investment advice of employees, a very important point because this is where it makes matters worse. No notification to employees when executives dump company stock. We know how many were victimized by that. It gives preferential treatment for executive pension funds. We want success to be awarded both at the executive and the employee level. Why cannot Republicans recognize that? There are no new penalties for pension plan abuse.

The contrast is stark. The decision is important. We have a responsibility on this day to restore confidence in pension plans and investments of workers and executives. We have a responsibility today to maintain confidence in our financial systems.

Vote "yes" on the Democratic substitute to do just that. Vote "no" on the Republican proposal, a bill that makes matters worse for workers investing in their retirement pensions.

I urge my colleagues to do just that. Mr. BOEHNER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, we have talked a lot today about diversification, blackout periods, fiduciary duty; but at the end of the day what this bill really is about is real people and their own financial security.

Current pension law is simply outdated, and we have the responsibility to change that. We have the responsibility to ensure that America's retirement futures are not jeopardized by laws that are out of step with our current times. If this bill had been law, it would have made a real difference for Enron's employees.

Under this bill they would have had access to professional investment advice, people who could have warned them that they had too many eggs in one basket. They would have been better informed about upcoming blackout periods, and they would have had more freedom to diversify their portfolios.

The retirement future of our Nation's workers is too important for political gamesmanship. In the wake of the Enron collapse, the American people are counting on us to make practical and necessary changes to our pension system that basically is healthy, and that, on the balance, works very well.

But my colleagues on the other side of the aisle are being encouraged by the political leaders of their party to support an alternative to this bill that would do far more harm than good. Instead of supporting bipartisan protections that would shield millions of American workers, the partisan opponents of this bill are putting their own political interests ahead of those of ordinary Americans. The House Democrat leadership alternative is really no alternative at all. It would enrich trial lawyers. It would hurt small businesses, impose costly new mandates, and even endanger 401(k)-type plans. Most importantly of all, it would continue to deny workers from getting access to the professional investment advice that is crucial for them to maximize their own retirement security. In short, the opponents of this bill would take us in exactly the wrong direction.

The underlying bill, the Pension Security Act, which has been embraced by Republicans and Democrats alike, would change what is wrong with current pension law without, and I say without, breaking what does not need to be fixed. I urge my colleagues to vote against the substitute and for the underlying bill.

Mr. UDALL of Colorado. Mr. Speaker, this bill is not all that it should be. It is not even the bill that we should be passing today.

We should be passing the substitute offered by the gentleman from California, Mr. GEORGE MILLER, and the gentleman from New York, Mr. RANGEL. That was why I voted for that substitute and why I am very disappointed that it was not adopted.

But now we are left with the choice of voting for this bill or voting for no legislation at all. And I think there definitely is an urgent need

for legislation to address the serious problems made so evidently by recent events, including the collapse of the Enron Corporation.

For that reason—and solely for that reason—I will vote for the bill. I do not think that it would be responsible to say that it would be better to do nothing.

In voting for the bill, I am under no illusions about its flaws. In particular, I very much disapprove of the changes the bill would make in current law related to investment advice provided to employees. Those provisions are similar to those in H.R. 2269, which the House passed last year. I voted against that bill, and if this bill did not include anything more, I would vote against it as well.

However, while the rest of the bill falls short of what I would prefer, it does make some improvements in current law. Further, passage of the bill will set the stage for the Senate to make further improvements—including correction or deletion of the investment-advice provision. I am voting for the bill today so that can take place, as I expect it will.

Mr. POMEROY. Mr. Speaker, I rise in opposition to the Miller substitute and in support of the underlying bill. Earlier in this debate, I indicated my support for the Miller amendment. In many respects, it does improve on the underlying bill. After further reviewing the substitute, however, I have found legal liability provisions that I believe will seriously discourage employers from offering retirement plans, to detriment of workers.

Setting aside the Enron fiasco, employer-sponsored retirement plans are a great success story of the American workplace. Such plans help employees accrue the assets they will need to live comfortably in retirement. Unfortunately, only half of American workers have access to employer-sponsored plans.

Therefore, as we seek to address the problems revealed by the collapse of Enron, we must both increase worker protection and encourage employers to expand pension coverage. We should protect workers by allowing them to diversify their retirement portfolio rather than keeping them locked into company stock. We should provide workers with adequate notification of impending black-out periods so that they may make changes in their portfolios before the temporary freeze occurs. Both the substitute and the underlying bill include these worker protections.

We should encourage the expansion of pension coverage by providing the type of rational, regulatory relief that is found in the underlying bill. What we should not do is increase employers' exposure to litigation arising from their retirement plan. Regrettably, the substitute does so in significant fashion. Rather than limiting liability to the fiduciary, who exercises control over the assets in the plan, the substitute expands liability to other parties who have no such control or responsibility. In addition, it greatly expands damage awards beyond simple losses to the plan. This increase in legal exposure would at least retard the growth of employer-sponsored plans and could even result in the contraction of retirement plans.

For these reasons, I must oppose the Miller substitute.

Mr. PASTOR. Mr. Speaker, I rise today in opposition to the Pension Protection Act as it is being presented to the House of Representatives and in favor of the alternative plan being offered by Congressman RANGEL and Congressman MILLER.

As we all know, the collapse and bankruptcy of the Enron Corporation left thousands of people without their retirement funds and wondering how they might make ends meet when they are no longer working. While the high ranking officials of the company were able to dump their stock in the last few days of the company's existence, the middle level and lower level workers, the people who had no idea of the financial disaster that lurked on the horizon, were locked out of selling their company stock and ended up losing most of if not all of their hard earned retirement funds.

Accordingly, it is incumbent on us in Congress to address this issue and to take the necessary steps, no matter how difficult they may be, to ensure that this never happens again. I strongly support efforts to do so.

However, Mr. Speaker, the bill we are voting on today does nothing to keep another "Enron" debacle from occurring today, or next month, or in years to come. The basic reforms that are needed are simply not there. True, this bill takes marginal actions, but these merely address the symptoms and not the core of the problems.

This bill would allow a dangerous situation to develop by allowing the investment firm that manages a company's pension plan to advise the employees on investment decisions that they should make. This is a fundamental conflict of interest and the classic example of the fox guarding the hen house.

The so-called Pension Protection Act also denies employees a voice on their own Pension Board. It is clear in the Enron scandal that the Enron Pension Trustees failed to take any actions at all to protect the savings of Enron employees. I believe it is critical that the Pension Board include some rank and file employees who have the interests of other employees at heart.

Also, Mr. Speaker, the bill we are considering today leaves employees locked into company stock for long periods of time, whether it is in their best interest to be there or not. And, just like the case in the Enron situation, this bill does nothing to let employees know when executives are "dumping" company stock.

But, I say to the employees of America, there is an alternative to this misguided legislation. Mr. RANGEL and Mr. MILLER are offering a substitute that addresses all these concerns and will take significant steps to ensure that your pension plans are safe and viable for your days of retirement.

The substitute requires that retirement plan participants be notified within three days when any significant sales of company stock by company executives occurs. Hopefully, the employees will then be able to make their own judgments as to the necessity to sell their own stock.

The substitute also will no longer allow company executives to dump their stock while the employees are in a blackout period. In my mind, this was one of the most horrific examples of executive greed in the entire Enron scandal, and we must do whatever is necessary to ensure that this never occurs again.

The substitute also provides for independent financial advice for employees when company stock is offered as an investment option. And, it gives employees a voice on their Pension Board.

Mr. Speaker, I hear over and over again in this House the desire to allow individuals to

have more control of their money, whether it be through massive tax cuts, or the creation of individual Social Security accounts, or other innumerable examples. Yet, this bill does not give employees any control over their money. It keeps control of their pensions in the hands of their employers.

This is the perfect vehicle to finally give the people more control of their hard earned money. Let's take the responsible step and pass the Rangel-Miller Substitute and make sure that employees' retirement accounts are protected.

Ms. KILPATRICK. Mr. Speaker, so the pattern continues. In October 2001, we provided \$15 million to the airline industry following the September 11th attack but the Republican leadership did nothing to assist the rank-and-file workers who were laid off. In November 2001, the Republican leadership bailed out the insurance industry at \$30 plus million, but did nothing for the rank-and-file workers. In February 2002, the Republican leadership secured big business with several tax breaks, but again, no real assistance for the rank-and-file worker.

Mr. Speaker, this pattern begs the question, "who are we here to represent?" According to the actions of the leadership, it would seem that we are to represent big business only. What about the rank-and-file workers who make up more than half of our country? Do they not deserve protection and security by the United States of America?

Today, we are attempting to pass a bill that purports to protect workers from future Enron debacles. Thousands of workers at Enron were left distraught and with little to no retirement savings. Executives, who knew of the situation, secured their assets. These employees lost well over \$1 billion of their retirement savings because corporate management kept their employees in the dark about the actual net worth of Enron and the safety of the 401(k) plans.

The leadership claims to fix that situation with H.R. 3762. This bill proposes a 30-day notice prior to "blackout" periods for rank-and-file employees. This, supposedly, will allow employees to alter their 401(k) plans before the blackout. Executives, however, will have the option to adjust their 401(k) plans at anytime, even during the blackout. The bill also permits executives to move thousands of dollars from their stock plans without rank-and-file employees being notified of the drastic change. Additionally, executives would be the only individuals on the Pension Board deliberating the pension plans for the entire company. Amendments to include workers on the Board have been struck down.

This bill supports what occurred at Enron. We need a bill that works for the rank-and-file, not just for the corporate executive. We need extensive disclosure of pension information for the rank-and-file. We need independent, unbiased and accurate financial advice. We need rank-and-file representation on the Pension Boards so their voices will be heard. We need a level playing field during blackouts. If rank-and-file employees cannot touch their 401(k) plans, executives should be prohibited too. All of these suggestions are addressed in the Democratic substitute but not in the bill.

Mr. Speaker, it is due time that the leadership acknowledge the pension rights of workers and seek to secure them. For that reason, I will vote "no" on H.R. 3762. This is another

attempt to protect the wealthy, with little concern for the worker. We can do much better, Mr. Speaker, and I await that day.

The SPEAKER pro tempore. Pursuant to House Resolution 386, the previous question is ordered on the bill, as amended, and on the amendment by the gentleman from California (Mr. GEORGE MILLER).

The question is on the amendment in the nature of a substitute offered by the gentleman from California (Mr. GEORGE MILLER).

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

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

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

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 187, nays 232, not voting 15, as follows:

[Roll No. 90]

YEAS—187

Abercrombie	Green (TX)	Miller, George
Ackerman	Gutierrez	Mink
Andrews	Hall (OH)	Mollohan
Baca	Harman	Moran (VA)
Baird	Hastings (FL)	Morella
Baldacci	Hilliard	Murtha
Baldwin	Hinchee	Nadler
Barrett	Hinojosa	Napolitano
Becerra	Hoeffel	Neal
Bentsen	Holden	Oberstar
Berkley	Holt	Obey
Berman	Honda	Oliver
Berry	Hookey	Ortiz
Bishop	Hoyer	Owens
Blagojevich	Inslee	Pallone
Blumenauer	Israel	Pascarell
Bonior	Jackson (IL)	Pastor
Borski	Jackson-Lee	Payne
Boswell	(TX)	Pelosi
Boucher	Jefferson	Phelps
Brady (PA)	Johnson, E. B.	Price (NC)
Brown (FL)	Jones (OH)	Rahall
Brown (OH)	Kanjorski	Rangel
Capps	Kaptur	Reyes
Capuano	Kennedy (RI)	Rivers
Carson (IN)	Kildee	Rodriguez
Clay	Kilpatrick	Roemer
Clayton	Kind (WI)	Rothman
Clement	Kleczka	Roybal-Allard
Clyburn	Kucinich	Rush
Condit	LaFalce	Sabo
Conyers	Lampson	Sanchez
Costello	Langevin	Sanders
Coyne	Lantos	Sandlin
Crowley	Larsen (WA)	Sawyer
Cummings	Larson (CT)	Schakowsky
Davis (CA)	Lee	Schiff
Davis (IL)	Levin	Scott
DeFazio	Lewis (GA)	Serrano
DeGette	Lipinski	Sherman
Delahunt	Lofgren	Shows
DeLauro	Lowey	Skelton
Deutsch	Luther	Slaughter
Dicks	Lynch	Solis
Dingell	Maloney (CT)	Spratt
Doggett	Maloney (NY)	Stark
Doyle	Markey	Strickland
Edwards	Mascara	Stupak
Engel	Matsui	Tauscher
Eshoo	McCarthy (MO)	Taylor (MS)
Etheridge	McCarthy (NY)	Thompson (CA)
Evans	McCollum	Thompson (MS)
Farr	McDermott	Thurman
Fattah	McGovern	Tierney
Filner	McIntyre	Towns
Frank	McKinney	Udall (CO)
Frost	McNulty	Udall (NM)
Gephardt	Meek (FL)	Velazquez
Gonzalez	Meeks (NY)	Visclosky
Gordon	Menendez	Waters

Watson (CA)
Watt (NC)
Waxman

Weiner
Wexler
Woolsey

Wu
Wynn

NAYS—232

Aderholt	Graham	Peterson (MN)
Akin	Granger	Peterson (PA)
Armey	Graves	Petri
Bachus	Green (WI)	Pickering
Baker	Greenwood	Platts
Ballenger	Grucci	Pombo
Barcia	Gutknecht	Pomeroy
Barr	Hall (TX)	Portman
Bartlett	Hansen	Putnam
Barton	Hart	Quinn
Bass	Hastings (WA)	Radanovich
Bereuter	Hayes	Ramstad
Biggert	Hayworth	Regula
Billirakis	Hefley	Rehberg
Blunt	Herger	Reynolds
Boehlert	Hill	Riley
Boehner	Hilleary	Rogers (KY)
Bonilla	Hobson	Rogers (MI)
Bono	Hoekstra	Rohrabacher
Boozman	Horn	Ros-Lehtinen
Boyd	Hostettler	Ross
Brady (TX)	Houghton	Royce
Brown (SC)	Hulshof	Ryun (KS)
Bryant	Hunter	Saxton
Burr	Hyde	Schaffer
Calvert	Isakson	Schrock
Camp	Issa	Sensenbrenner
Cannon	Istook	Shadegg
Cantor	Jenkins	Shaw
Capito	John	Shays
Cardin	Johnson (CT)	Sherwood
Carson (OK)	Johnson (IL)	Shimkus
Castle	Johnson, Sam	Shuster
Chabot	Keller	Simmons
Chambliss	Kelly	Simpson
Coble	Kennedy (MN)	Skeen
Collins	Kerns	Smith (MI)
Combest	King (NY)	Smith (NJ)
Cox	Kingston	Smith (TX)
Cramer	Kirk	Smith (WA)
Crane	Knollenberg	Snyder
Crenshaw	Kolbe	Souder
Cubin	LaHood	Stearns
Culberson	Latham	Stenholm
Cunningham	LaTourette	Stump
Davis (FL)	Leach	Sullivan
Davis, Jo Ann	Lewis (CA)	Sununu
Davis, Tom	Lewis (KY)	Sweeney
Deal	Linder	Tancredo
DeLay	LoBiondo	Tanner
DeMint	Lucas (KY)	Tauzin
Dooley	Lucas (OK)	Taylor (NC)
Doolittle	Manzullo	Terry
Dreier	Matheson	Thomas
Duncan	McCrery	Thornberry
Dunn	McHugh	Thune
Ehlers	McInnis	Tiahrt
Ehrlich	McKeon	Tiberi
Emerson	Mica	Toomey
English	Millender-	Turner
Everett	McDonald	Upton
Ferguson	Miller, Dan	Vitter
Flake	Miller, Gary	Walden
Fletcher	Miller, Jeff	Walsh
Foley	Moore	Wamp
Forbes	Moran (KS)	Watkins (OK)
Fossella	Myrick	Watts (OK)
Frelinghuysen	Nethercutt	Weldon (FL)
Galleghy	Ney	Weldon (PA)
Ganske	Northup	Weller
Gekas	Norwood	Whitfield
Gibbons	Nussle	Wicker
Gilchrest	Osborne	Wilson (NM)
Gillmor	Ose	Wilson (SC)
Gilman	Otter	Wolf
Goode	Oxley	Young (AK)
Goodlatte	Paul	Young (FL)
Goss	Pence	

NOT VOTING—15

Allen	Diaz-Balart	Pryce (OH)
Burton	Ford	Roukema
Buyer	Jones (NC)	Ryan (WI)
Callahan	Meehan	Sessions
Cooksey	Pitts	Trafficant

□ 1548

Messrs. SKEEN, SMITH of Texas, EHLERS, HYDE, and TIBERI changed their vote from "yea" to "nay."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

Stated for:

Ms. MILLENDER-McDONALD. Mr. Speaker, I mistakenly voted "no" on rollcall 90, the Miller substitute. My intention was to vote "yes."

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). The question is on engrossment and third reading of the bill.

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

MOTION TO RECOMMIT OFFERED BY MR. GEORGE MILLER OF CALIFORNIA

Mr. GEORGE MILLER of California. Mr. Speaker, I offer a motion to recommit.

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

Mr. GEORGE MILLER of California.

Mr. Speaker, yes, I am.

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

The Clerk read as follows:

Mr. GEORGE MILLER of California moves to recommit the bill H.R. 3762 to the Committee on Education and the Workforce with instructions to report the same back to the House promptly with the following amendment:

Add at the end thereof the following new section:

SEC. 501. TREATMENT OF CERTAIN FUNDED DEFERRED COMPENSATION PLANS FOR CORPORATE INSIDERS AS PENSION PLANS COVERED UNDER ERISA.

(a) INCLUSION IN DEFINITION OF PENSION PLAN.—Section 3(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(2)) is amended by adding at the end the following new subparagraph:

"(C)(i) The terms 'employee pension benefit plan' and 'pension plan' shall also include any arrangement providing for the deferral of compensation of a corporate insider of a corporation that is not otherwise a pension plan within the meaning of subparagraph (A), unless—

"(I) all amounts of compensation deferred under the arrangement,

"(II) all property and rights purchased with such amounts, and

"(III) all income attributable to such amounts, property, or rights, remain (until made available to the corporate insider or other beneficiary under the arrangement) solely the property and rights of the employer (without being restricted to the provision of benefits under the arrangement), subject only to the claims of the employer's general creditors.

"(ii) For purposes of clause (i), the term 'corporate insider' means, in connection with a corporation, any individual who is subject to the requirements of section 16(a) of the Securities Exchange Act of 1934 with respect to such corporation.

"(iii) In the case of any arrangement that is a pension plan under clause (i)—

"(I) the corporation shall be treated as an employer (within the meaning of paragraph (5)) of the corporate insider,

"(II) the corporate insider shall be treated as an employee (within the meaning of paragraph (6)) of the corporation, and

"(III) the arrangement shall not be treated as an unfunded arrangement."

(b) COMPLIANCE WITH CERTAIN PARTICIPATION STANDARDS.—Section 202 of such Act (29 U.S.C. 1052) is amended by adding at the end the following new subsection:

“(c) An arrangement that is a pension plan under section 3(2)(C)(i) shall comply with the requirements of section 410 of the Internal Revenue Code of 1986 necessary for a trust forming a part of such plan to constitute a qualified trust under section 401(a) of such Code.”.

Mr. GEORGE MILLER of California (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

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

There was no objection.

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

Mr. GEORGE MILLER of California. Mr. Speaker, one of the things we learn from the Enron tragedy and one of the things that we have learned from Global Crossing and so many other companies that have started to fail or turned on bad times is that the corporate elite, the CEO and others, have 401(k) plans that are absolutely protected. Their ability to collect on their pension plans has nothing to do with the financial health of the company, how well the company does or how poorly the company does. Yet we see the employees with their 401(k) plans; they are absolutely tied to how the company does. And in many instances, they are locked into the stock of the company.

What we are seeing here is what the President said when he went to North Carolina, if it is good for the captain, it is good for the crew. We cannot have the executives ensuring their pension plans so that they walk off with millions and tens of millions of dollars, lifetime pensions, and the employees have got to go to bankruptcy court and hope that there is something left over for them. If we insure one, we insure others. If preference is given to one, preference is given to the other.

Mr. Speaker, it is a very important principle. The theory of executive compensation is that we are rewarding an executive, one, for how well their company does. Yet we see time and again executive compensation has nothing to do with the performance of the company. Their pension plans are guaranteed; and yet the employee must be more productive, must do all that they can to make that company perform so that their stock is worth what it should be in their retirement plans.

We think that they ought to be treated alike, and this is an opportunity to vote to make sure that there is parity among the elite executives of a corporation with respect to pension plans, and among the employees, that they not get left out.

It is terribly important that as the executives walk off stage with tens of millions of dollars, that the employees not be left holding the bag; and that is the purpose of this amendment.

Mr. Speaker, I yield to the gentleman from California (Mr. MATSUI), who of-

fered this in the Committee on Ways and Means.

Mr. MATSUI. Mr. Speaker, I have to say what happened with the Enron situation was not unique because this is going to happen more and more. Essentially what has happened is CEOs and top management people in many corporations have set up a plan that basically violates the principles of our pension laws.

Ken Lay, for example, was able to get deferred compensation, that is, he did not have to pay any taxes on his retirement program. Yet when Enron filed bankruptcy, he was able to collect about \$2 million from that plan, whereas every other Enron employee lost valuable assets in their 401(k) plan. This would merely tighten that up and make it consistent where Members of both the House and the Senate, and certainly Democrats and Republicans would not want anyone to be able to defer taxes, and at the same time be able to get a fully funded program that is protected from bankruptcy.

Mr. Speaker, this has to be tightened up. This is closing a loophole. This is something that we cannot allow to happen as we see more and more of these Enron scandals occur.

Mr. GEORGE MILLER of California. Mr. Speaker, all of us in the Committee on Financial Services, the Committee on Energy and Commerce, and the Committee on Education and the Workforce have listened to these workers who have had their retirement plans destroyed, workers who are 55, 59, 62 years old; their plans are destroyed, and they are now dependent on their children. The life they thought they were going to lead, they are not going to be able to.

Yet Ken Lay, who looted this company and destroyed these people's retirement nest egg walks off stage with \$475,000 a year in guaranteed income and a multimillion dollar house in Texas that is protected under bankruptcy law.

Somehow there has to be parity and fairness. This is our chance to repair what is lacking in the Republican bill and provide fairness and protection for the employee, the same as the CEO and the chief operating officers of this corporation get, to make sure that employees are not left holding the bag.

Mr. Speaker, I would urge an “aye” vote on the motion to recommit.

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

The SPEAKER pro tempore. The gentleman from Ohio (Mr. BOEHNER) is recognized for 5 minutes in opposition to the motion to recommit.

Mr. BOEHNER. Mr. Speaker, this is a rather unusual motion to recommit. It does not change the bill and allow it to move on; it actually would send the bill back to the committee. After all of the work that we have done in two committees, and all of the work we have done here, the last thing we want to do is send this bill off to a black hole.

But more importantly, what the gentleman from California (Mr. GEORGE MILLER) is suggesting is that we try to change IRS code and bankruptcy code through ERISA, trying to get at the top end of employees who have deferred compensation plans.

All of us know that deferred compensation plans are not tax-qualified pension plans. They are payment plans for high-level executives. I could not agree more with the gentleman from California (Mr. MATSUI) that what Ken Lay and other executives at Enron did was absolutely wrong. But to try to change bankruptcy protections through ERISA is not going to change the employees who we are attempting to help in the underlying bill.

Mr. Speaker, I would ask my colleagues, considering the time, that we do not want to send this bill off to oblivion. We want to move this process on. This is not a very good idea and will not help the employees that we are attempting to help. I urge my colleagues to vote “no.”

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

There was no objection.

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

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

RECORDED VOTE

Mr. GEORGE MILLER of California. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the period of time within which a vote by electronic device will be taken on the question of the passage of the bill.

The vote was taken by electronic device, and there were—ayes 204, noes 212, not voting 19, as follows:

[Roll No. 91]

AYES—204

Abercrombie	Clyburn	Gordon
Ackerman	Condit	Green (TX)
Andrews	Conyers	Gutierrez
Baca	Costello	Hall (OH)
Baird	Coyne	Harman
Baldacci	Cramer	Hastings (FL)
Baldwin	Crowley	Hill
Barcia	Cummings	Hilliard
Barrett	Davis (CA)	Hinchee
Becerra	Davis (FL)	Hinojosa
Bentsen	Davis (IL)	Hoeffel
Berkley	DeFazio	Holden
Berman	DeGette	Holt
Berry	Delahunt	Honda
Bishop	DeLauro	Hooley
Blagojevich	Deutsch	Inslee
Blumenauer	Dicks	Israel
Bonior	Dingell	Jackson (IL)
Borski	Doggett	Jackson-Lee
Boswell	Dooley	(TX)
Boucher	Doyle	Jefferson
Boyd	Edwards	John
Brady (PA)	Engel	Johnson, E. B.
Brown (FL)	Eshoo	Jones (OH)
Brown (OH)	Etheridge	Kanjorski
Capps	Evans	Kaptur
Capuano	Farr	Kennedy (RI)
Cardin	Fattah	Kildee
Carson (IN)	Filner	Killpatrick
Carson (OK)	Frank	Kind (WI)
Clay	Frost	Klecza
Clayton	Gephardt	Kucinich
Clement	Gonzalez	LaFalce

Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Stearns
Stenholm
Stump
Sullivan
Sununu
Sweeney
Tancred
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Turner
Udall (CO)
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Young (AK)
Young (FL)

Menendez
Millender-
McDonald
Miller, George
Mink
Mollohan
Moore
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Oliver
Ortiz
Owens
Pallone
Pascarell
Pastor
Payne
Pelosi
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Slaughter
Solis
Spratt
Stark
Strickland
Stupak
Tauscher
Thompson (CA)
Thompson (MS)
Thurman
Tierney

Towns	Waters	Weiner
Udall (NM)	Watson (CA)	Wexler
Velazquez	Watt (NC)	Woolsey
Visclosky	Waxman	Wynn

NOT VOTING—17

Allen	Ford	Riley
Burton	Horn	Roukema
Buyer	Meehan	Ryan (WI)
Callahan	Meek (FL)	Sessions
Cooksey	Paul	Traficant
Diaz-Balart	Pryce (OH)	

□ 1625

Mr. STRICKLAND changed his vote from "aye" to "no."

Mr. LUTHER changed his vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. BURTON of Indiana. Mr. Speaker, during rollcall votes Nos. 90, 91, and 92, I was unavailable due to an illness in my family. Had I been here I would have voted "no" on rollcall votes Nos. 90 and 91 and "yea" on rollcall vote No. 92.

LEGISLATIVE PROGRAM

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

Ms. PELOSI. Mr. Speaker, I take this time for the purpose of inquiring about the schedule for next week.

I am pleased to yield to the distinguished gentleman from Ohio (Mr. PORTMAN).

Mr. PORTMAN. Mr. Speaker, I thank the gentlewoman for yielding.

I am pleased to announce that the House has now completed its legislative business for the week. The House will next meet for legislative business on Tuesday, April 16, at 12:30 p.m. for morning hour, and 2 o'clock p.m. for legislative business. The House will consider a number of measures under suspension of the rules, a list of which will be distributed to Members' offices tomorrow. On Tuesday, recorded votes will be postponed until 6:30 p.m.

For Wednesday and Thursday, the majority leader has scheduled H.R. 476, the Child Custody Protection Act. The majority leader is also working with the chairman of the Committee on Ways and Means to bring legislation to the floor next week to repeal the sunsets on the Bush tax relief plan that was passed by Congress last year.

Ms. PELOSI. Mr. Speaker, reclaiming my time, I thank the gentleman for the information. I would just like to inquire if the gentleman knows which day the tax bill will be scheduled?

Mr. PORTMAN. If the gentlewoman will yield further, it looks as though the tax bill will be scheduled for Thursday, and the child custody bill will likely be scheduled for Wednesday.

Ms. PELOSI. Will the legislation on pensions from the Committee on Financial Services come to the floor next week?

Mr. PORTMAN. It is my understanding that the Committee on Financial Services marked that legislation up today. It is being looked at now. It is unlikely to come up next week. More likely it would come up in later weeks. But we are still looking at the legislation.

Ms. PELOSI. Is there any other legislation that is expected to come to the floor, apart from the two bills that the gentleman mentioned?

Mr. PORTMAN. There is no other legislation, other than the suspensions on Tuesday, that is anticipated at this time.

Ms. PELOSI. Mr. Speaker, I thank the gentleman for the information.

ADJOURNMENT TO MONDAY,
APRIL 15, 2002

Mr. PORTMAN. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 2 p.m. on Monday next.

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

There was no objection.

HOUR OF MEETING ON TUESDAY,
APRIL 16, 2002

Mr. PORTMAN. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, April 15, 2002, it adjourn to meet at 12:30 p.m. on Tuesday, April 16, 2002, for morning hour debates.

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

There was no objection.

DISPENSING WITH CALENDAR
WEDNESDAY BUSINESS ON
WEDNESDAY NEXT

Mr. PORTMAN. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

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

There was no objection.

REMOVAL OF NAME OF MEMBER
AS COSPONSOR OF H.R. 3598

Mr. WELDON of Pennsylvania. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 3598.

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

There was no objection.

PERMITTING OFFICIAL PHOTO-
GRAPHS OF HOUSE WHILE IN
SESSION

Mr. DOOLITTLE. Mr. Speaker, I ask unanimous consent that the Com-

mittee on House Administration be discharged from further consideration of the resolution (H. Res. 378) permitting official photographs of the House of Representatives to be taken while the House is in actual session, and ask for its immediate consideration in the House.

The Clerk read the title of the resolution.

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

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 378

Resolved, That at a time designated by the Speaker of the House of Representatives, official photographs of the House may be taken while the House is in actual session. Payment for the costs associated with taking, preparing, and distributing such photographs may be made from the applicable accounts of the House of Representatives.

The resolution was agreed to.

A motion to reconsider was laid on the table.

CONGRATULATING UNIVERSITY OF
MARYLAND FOR WINNING 2002
NCAA MEN'S BASKETBALL
CHAMPIONSHIP

Mr. McKEON. Mr. Speaker, I ask unanimous consent that the Committee on Education and the Workforce be discharged from further consideration of the resolution (H. Res. 383) congratulating the University of Maryland for winning the 2002 National Collegiate Athletic Association men's basketball championship, and ask for its immediate consideration in the House.

The Clerk read the title of the resolution.

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

Mr. HOYER. Mr. Speaker, reserving the right to object, of course I not only will not object, but will enthusiastically support this resolution.

But I rise, as everyone I am sure in the Chamber can understand, with great pride in 12 young men and Coach Gary Williams, who had an extraordinary season; who won the national championship for the first time in the school's history; who won the Atlantic Coast Conference championship for the first time in 22 years; who beat teams who had won 15 national championships in Kentucky, in Indiana and in Kansas; who overcame personal adversity as well as they played throughout the season; who went 15 and 0 at home, one of the first times that any team has done that in Maryland's history, and in doing so, crowned an extraordinary history for Cole Field House, which is now going to be closed, at least for the basketball team, who will play in a new arena next year.

All in all, it was an extraordinary season for extraordinary young men and for an extraordinary coach. Gary Williams has coached for 30 years now,

24 years as a head coach. He has a winning record of great proportions and is clearly recognized as one of the great coaches of basketball in America.

□ 1630

At this time, if I might, Mr. Speaker, under my reservation, I yield to the distinguished gentleman from Maryland (Mr. WYNN). I might say that the gentleman and I have the privilege of representing Prince George's County in which the University of Maryland at College Park is located.

Mr. WYNN. Mr. Speaker, I thank the gentleman from Maryland (Mr. HOYER), the distinguished leader of our delegation, for yielding me this time; and I thank the University of Maryland. I would say that I certainly want to join with him in this resolution commending the University of Maryland Terrapins basketball team. There is a new motto in our State. It says, the University of Maryland: whether they played football in January and basketball in April. We have indeed had a very fine year, both in football and now in basketball, and we are certainly proud to honor our outstanding Terrapins basketball team and their outstanding coach, Gary Williams.

I would just like to offer a word of congratulations to the also very fine University of Indiana team that put up a good fight in the championship game; but as they say, the Terrapins prevailed. Many fans say, fear the Terrapin. I would say, love the Terrapin. We have had a great season with the great support from our fans, the entire university and the entire State promoting the Terrapins, and it has been a truly wonderful and outstanding experience.

I would also note the outstanding story of our star player, Juan Dixon, who represents an outstanding example of triumph over adversity. He has emerged as not only an outstanding basketball player, but also an outstanding individual and role model for an individual who started off in less than ideal circumstances and, through force of will, perseverance and commitment rose to heights of accomplishments. I again hail the University of Maryland Terrapins.

Mr. HOYER. Mr. Speaker, I thank the gentleman for his comments.

Continuing under my reservation, I yield to the distinguished gentleman from California (Mr. McKEON), and thank him for providing for such a rapid consideration of this resolution.

Mr. McKEON. Mr. Speaker, I thank the gentleman for yielding. From the other side of the country I also, Mr. Speaker, would like to rise in support of House Resolution 383. This resolution congratulates the University of Maryland Terrapins for winning the 2002 NCAA Basketball Championship.

As my colleagues know, the Terrapins finished the 2002 season with 32 wins. This is quite an accomplishment and one that we should recognize. I would also like to congratulate Coach

Gary Williams, who led the team during this victorious season. Many good things have been said about him, and I would like to recognize and associate myself with those words.

I would also like to thank our colleague, the gentleman from Maryland (Mr. HOYER), for introducing this resolution, and our colleague, the gentleman from Maryland (Mr. GILCHREST), for bringing this resolution to my attention. I would ask all of my colleagues for their support.

Mr. HOYER. Mr. Speaker, reclaiming my time, I thank the gentleman for his comments and for his leadership in facilitating, as I said, this resolution coming to the floor.

Mr. Speaker, I yield to the very distinguished gentleman from Baltimore City, Maryland (Mr. CUMMINGS).

Mr. CUMMINGS. Mr. Speaker, I thank the gentleman for yielding, and I also thank the gentleman for the resolution. It is certainly a pleasure to congratulate the Maryland Terrapins on winning the NCAA tournament. As a graduate of the University of Maryland, it makes me feel real good.

I think the thing that impressed me so much about this team was not just what they did on the court, but it was their demeanor off the court. They were never bragging; they showed a lot of humility and a determination that I have not seen from many teams. Just talking to the people in my neighborhood, many of them are admirers of the team; but, in particular, many of them knew Juan Dixon personally. I think it inspired a lot of them to be the best that they can be, even under adverse circumstances. So often when we look at a team, we look at the win and loss column. But that is not all that goes into it. Particularly with this University of Maryland team, with Juan, whose both parents died as a result of AIDS and drug use, and to emerge to where he has gotten to today says a whole lot, and has given a lot of hope to a lot of people. So not only is it a great team on the court, but a great team off the court too.

To Gary Williams, I worry about him quite a bit on the sidelines. I will tell my colleagues, I worry whether he is going to have a heart attack over there. But the fact is he puts his soul into this team, and we are certainly very, very proud in the State of Maryland to have such a great team; and may God bless all of them, and may God bless the University of Maryland.

Mr. HOYER. Mr. Speaker, I thank the gentleman for his comments and for his telling of the story of Juan Dixon. Frankly, all of the young men on that team have faced adversity at one time or another. All of us have. As a matter of fact, Coach Williams' dad died shortly before the final tournament, and they overcame that. They overcame it as a team, they overcame it as individuals, because as the gentleman from Maryland (Mr. CUMMINGS) said, they had a great deal of courage and a great deal of a sense of purpose, and what a joy it is.

Mr. Speaker, I yield to the gentleman from Florida (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, just briefly, my chief of staff, Kirk Fordham, graduated from the University of Maryland; and I watched with great excitement as his alma mater racked up those points and won kind of a come-from-behind team, a Cinderella team, if you will.

Florida has been lucky enough to produce many champions: University of Miami, Florida State and, of course, the University of Florida, and to watch a team that displayed such class and such enthusiasm and, even though all of the pundits pretty much ruled them out at the very beginning, to watch them emerge each time after a game up the ladder to the Final 4 and then, of course, to victory, I salute you.

I salute your team. I salute the parents, the coaches, all of those in the athletic department that support us. Because it does take a colossal effort to move the enthusiasm to the level where you reach a national championship.

So I salute the gentleman from Maryland (Mr. HOYER) on his phenomenal team and his phenomenal State. My brother-in-law, in fact, was born in Havre de Grace, so I take a little bit of pride to being at least a distant relative of Maryland and share with my colleagues their great victory.

Mr. HOYER. Mr. Speaker, I thank the gentleman for his comments, and I would only add that when FSU joined the Atlantic Coast Conference in football we all took it roughly, because they are all so good; and as the gentleman knows, Maryland had one of its best years in football ever, finishing 10 and one in the regular season. And, of course, because FSU lost to Tennessee, it came down to the Orange Bowl and taught us how to play football, a very excellent team. Of course, we returned the favor by taking Steve Spurrier up to Washington, as the gentleman knows. But I thank the gentleman for his comments.

The resolution, in addition to congratulating the Terrapins, congratulates all 65 teams, as my colleagues know, for their participation. Because it is the quality of every program that really makes March Madness such an extraordinary athletic event, exciting the entire country and indeed, much of the world, that knows about basketball, so that this resolution congratulates all who participated.

Along that line, I mentioned the fact of the three teams that were extraordinarily able teams that we beat to get to the finals; but I did not mention UCONN, the University of Connecticut under Coach Calhoun, also an extraordinary team.

Mr. Speaker, frankly, if I took another half an hour or another hour, I could not, by virtue of words, exceed what the Maryland Terrapins have done by their actions; but there is somebody who would like to add some words, I see.

Mr. Speaker, it is my understanding we have more time on the clock, so I yield to the distinguished gentlewoman from Maryland (Mrs. MORELLA), of Montgomery County, which has a major campus of the University of Maryland in her district, and she is right beside the University of Maryland at College Park.

Mrs. MORELLA. Mr. Speaker, I appreciate the gentleman bringing up this resolution, which has a lot of symbolism attached to it.

First of all, of course, coming in at the last minute, one can never tell with the University of Maryland. They are going to do it, whether people expect they will or not. I am very proud of the University of Maryland and what they have been doing in so many areas, and this is one of those examples.

I rise to congratulate the University of Maryland Terrapins for winning the 2002 NCAA men's basketball championship. As we all knew, the key to the Terps' winning team was teamwork. The camaraderie among the players, the leadership of its seniors, and the guidance of Coach Gary Williams led to their success.

Incidentally, Gary Williams came from the American University to the University of Maryland.

Knowing that 2001-2002 marked the last season in Cole Field House, the Terps triumphed and won every game at home, beating all the ACC teams that walked on their court. I am particularly proud of the Montgomery County native, Lonnie Baxter, who hails from Silver Spring, Maryland. Lonnie was named the Most Valuable Player in NCAA regional play 2 years in a row, averaging almost 15 points and eight rebounds each game. Congratulations to Lonnie, and we wish you the best of luck as you pursue a career in the NBA.

Again, congratulations to the Terps and their victory. Everyone on the team has made the State of Maryland proud. I thank my colleagues on both sides of the aisle for allowing me to come in, to make this final statement and tribute.

Mr. HOYER. Mr. Speaker, I thank the gentlewoman for her comments. She did mention something that really does bear focus, and that is the extraordinary academic achievements of the University of Maryland. In the final analysis, obviously, although the football team was extraordinarily successful and the basketball team, and indeed, the entire athletic program under our athletic director, Debbie Yow, one of two women who leads an NCAA-1 team in the athletic department in that division, has done an extraordinary job, but as well, Dan Mote, the president of the University of Maryland and his predecessors as president of the University of Maryland have brought it up academically so that it is one of the finest academic institutions in the country as well; and I think it reflects the balance between the mental and the physical that the

Greeks, of course, and the Olympics tried to reflect. So I thank the gentlewoman for focusing on that point.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 383

Whereas on April 1, 2002, the University of Maryland Terrapins won the National Collegiate Athletic Association men's basketball championship;

Whereas the Maryland Terrapins compiled a school record for wins during the 2002 season with 32, their 4th straight season with 25 wins or more;

Whereas the Maryland Terrapins went undefeated at home in the last year of play at historic Cole Field House by achieving a record of 15-0;

Whereas the Maryland Terrapins won their 1st outright Atlantic Coast Conference regular season championship in over 22 years;

Whereas Maryland Terrapins qualified for their 9th consecutive NCAA tournament under Coach Gary Williams and obtained a number 1 seed in the East Region this year, and advanced to their 2nd consecutive Final Four;

Whereas in the NCAA championship game the Maryland Terrapins faced the Indiana University Hoosiers and came away victorious by a score of 64-52;

Whereas the Maryland Terrapins had to beat perennial basketball powerhouses Kentucky, Connecticut, and Kansas before earning the right to play in the championship game;

Whereas the NCAA men's basketball championship was the 1st in Maryland's school history;

Whereas the Maryland Terrapins are 1 of only 5 teams in history to have won national championships in both basketball and football;

Whereas University of Maryland senior Juan Dixon was named the Most Outstanding Player of the tournament, First Team All-American, and Atlantic Coast Conference Player of the Year;

Whereas University of Maryland senior Lonny Baxter was named the Most Valuable Player in regional play for the 2nd year in a row;

Whereas the entire Maryland Terrapin team, including Earl Badu, Lonny Baxter, Steve Blake, Andre Collins, Juan Dixon, Mike Grinnon, Tahj Holden, Calvin McCall, Byron Mouton, Drew Nicholas, Ryan Randle, and Chris Wilcox, demonstrated the highest level of teamwork, skill, tenacity, and sportsmanship throughout the entire 2001-2002 season;

Whereas Coach Gary Williams and his coaching staff of Dave Dickerson, Jimmy Pastos, Matt Kovarik, and Director of Basketball Operations Troy Wainwright have built one of the preeminent college basketball programs in the Nation, as demonstrated by this championship win and more than a decade of achievement;

Whereas Coach Gary Williams, a 1968 alumnus of the University of Maryland, led his alma mater to the 2002 National Championship and has compiled a tremendous track record of achievement and success in his more than 30 years in coaching, including 24 years as a head coach; and

Whereas University of Maryland Athletic Director Deborah Yow has played an instrumental role in elevating all of the Univer-

sity's intercollegiate athletic programs, including, the men's basketball team and the football team, which under the direction of Head Coach Ralph Friedgen compiled a 10-1 regular season record and earned an invitation to the 2002 Orange Bowl: Now, therefore, be it

Resolved, That the House of Representatives—

(1) congratulates—

(A) the University of Maryland Terrapins for winning the 2002 National Collegiate Athletic Association Basketball Championship on April 1, 2002;

(B) all of the 65 outstanding teams who participated in the 2002 tournament; and

(C) the National Collegiate Athletic Association for its continuing excellence in providing a supportive arena for the Nation's college athletes to display their talents and sportsmanship;

(2) commends the Maryland Terrapins for their outstanding performance during the entire 2002 season and for their commitment to high standards of character, perseverance, and teamwork;

(3) recognizes the achievements of the players, coaches, and support staff who were instrumental in helping the Maryland Terrapins win the 2002 championship; and

(4) directs the Clerk of the House of Representatives to transmit an enrolled copy of this resolution to—

(A) Dr. C.D. "Dan" Mote, the President of the University of Maryland;

(B) Deborah Yow, the Athletic Director at the University of Maryland; and

(C) Gary Williams, the head coach of the University of Maryland Terrapins men's basketball team.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. McKEON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 383.

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

There was no objection.

RESIGNATION AS MEMBER OF PERMANENT SELECT COMMITTEE ON INTELLIGENCE

The SPEAKER pro tempore laid before the House the following resignation as a member of the Permanent Select Committee on Intelligence:

APRIL 10, 2002.

Hon. J. DENNIS HASTERT,

Speaker of the House of Representatives, Capitol, Washington, DC.

DEAR MR. SPEAKER: Effective at 5 pm tomorrow, April 11, 2002, I hereby resign my seat as a Member of the House Permanent Select Committee on Intelligence.

As always, I appreciate your support and friendship.

Warmly,

ALCEE, L. HASTINGS,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

APPOINTMENT OF MEMBER TO PERMANENT SELECT COMMITTEE ON INTELLIGENCE

The SPEAKER pro tempore. Without objection, and pursuant to clause 11 of rule X and clause 11 of rule I, the Chair announces the Speaker's appointment of the following Member of the House to the Permanent Select Committee on Intelligence to fill the existing vacancy thereon:

Mr. CRAMER of Alabama.

There was no objection.

PENSION PROTECTION ACT

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

Mr. GUTKNECHT. Mr. Speaker, later today the House will take up a bill called the Pension Protection Act of 2002; and as far as it is concerned, it is a pretty good bill. There is nothing really wrong with it. The problem is it is not strong enough. Most Americans do not know that right now employers have the right to change their pension plan at any moment, even vested employees. And, Mr. Speaker, when we look up in the dictionary the term "vested," it says "settled, fixed or absolute, being without contingency, as in a vested right."

The problem is that employers now have the right to change their pension plan in mid-course. Mr. Speaker, right now there are over 48 million American workers who are over the age of 45. Forty percent of all workers are engaged in what we call "defined benefit plans." Those can be changed and have tremendous cost to those employees.

Mr. Speaker, I have an amendment I would like to offer to that bill to make it clear that employers cannot raid the pension funds for their own benefit and deny people the benefits that they are vested in.

Mr. Speaker, this may be a good bill; but it really is not pension protection. I hope the Committee on Rules will make in order the amendment that I am offering today, and I hope my colleagues will join in supporting it.

Several years ago, thousands of IBM workers in my district came into work one morning to find that the defined pension plan they had been promised had been changed without warning. For years these employees had been able to calculate their future benefits with a pension calculator located on their computer, compliments of IBM. When the plan changed, the calculator disappeared. So did the employees' promised benefits.

Right now, companies can, at any time and for any reason, change a vested employee's pension plan—this is wrong.

Most often this change involves a company converting a traditional, defined benefit plan to a cash-balance plan, which usually results in anywhere from a 20–50% reduction in final benefits.

These conversions disproportionately burden older, career-oriented employees.

Bureau of Labor Statistics indicate there are more than 48 million workers over the age of 45.

More than 40 million workers or their spouses participate or receive benefits from defined benefit plans.

This amendment would:

(1) Provide 90 days notice of any pension plan conversion to all workers.

(2) Give fully vested employees the choice of staying in their current plan or switching to the new, amended plan.

This amendment exempts companies in financial distress from penalties (distress is to be determined by the Secretary of the Treasury, following guidelines set out in ERISA).

This amendment will have no adverse effect on profitable companies that simply keep their promises to their employees.

WHAT DO YOUR CONSTITUENTS THINK "VESTED" MEANS?

DEAR COLLEAGUE: In my dictionary, "vested" is defined as follows:

vested, *adj.* 1. Settle, fixed, or absolute; being without contingency: *a vested right.*

Despite this definition, being "vested" in a pension plan does not mean what most employees think it means. Did you know that companies can, at any time and for any reason, change a vested employee's pension plan? Most often, this change in plans involves a company changing from a traditional, defined benefit pension plan to a "cash balance" pension plan. This usually results in anywhere from a 20–50% reduction in final pension benefits, with long "wear-away" periods during which employees do not accrue any new benefits.

Bureau of Labor statistics indicate there are more than 48 million American workers over the age of 45. The latest Bureau of Labor statistics also show that more than 40 million workers or their spouses participate or receive benefits from defined benefit plans! Many of these 40 million workers fall into the over-45 category. Pension plan conversions disproportionately burden these older, career-oriented employees—those employees who need the most protection.

This is wrong! When companies change their retirement plans in a way that may reduce employee benefits, vested employees should be allowed to stay in the original pension plan that they were promised. Next week, I will introduce the Vested Worker Protection Act of 2002, and I'm looking for original cosponsors. This bill will require healthy companies to:

(1) provide 90 days notice of any pension plan change to all workers; and

(2) give fully vested employees the choice of staying in their current plan or switching to the new, amended plan.

This bill exempts companies in financial distress from penalties, while otherwise healthy companies will be subject to an excise tax should they violate the provisions of this bill.

This bill will have no adverse effect on profitable companies that simply keep their promises to their employees. Support employees in your district by signing on as an original co-sponsor of the Vested Worker Protection Act of 2002. To co-sponsor, please call James Beabout at extension 5-2472.

Sincerely,

GIL GUTKNECHT,
Member of Congress.

APRIL 10, 2002.

DEAR COLLEAGUE: When Congress considered major pension reform in 2000, I proposed an amendment to prevent healthy companies from changing the pension plans to the det-

riment of their fully vested employees. Unfortunately, the Rules Committee did not allow debate on my amendment.

Congress will revisit pension reform as soon as this week. I strongly feel that any pension reform legislation must include a provision to protect fully vested employees from having their pension plans changed overnight.

Several years ago, thousands of IBM workers in my district came into work one morning to find that the defined benefit pension plan they had been promised had been changed without warning. For years these employees had been able to calculate their future benefits with a pension calculator located on their computer, compliments of IBM. When the plan changed the calculator disappeared. So did the employees' promised benefits.

Most Americans take protection of their pension plans for granted. The Enron situation has demonstrated the need for employees to carefully monitor how their employer handles their retirement benefits. As more companies change their pension plans and reduce future benefits for employees, we must provide, at a minimum, protection for vested workers who are planning for retirement based on promises made by their employers. Strengthening the definition of "vested" and providing employee choice will go a long way toward re-establishing balance and fairness for workers with respect to pensions.

Sincerely,

GIL GUTKNECHT,
Member of Congress.

□ 1645

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. CULBERSON). Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

PATRICK HENRY: THE VOICE OF A REVOLUTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. PENCE) is recognized for 5 minutes.

Mr. PENCE. Mr. Speaker, in the 1830s, the French observer Alexis de Tocqueville took a road trip through America. We were a very young Nation, less than 60 years old, progressing, as Thomas Jefferson said, "beyond the reach of the mortal eye."

De Tocqueville came to find out for himself whether the great democratic revolution he had been told about was really true. Believing that this young nation would "sway the destinies of half the globe", de Tocqueville wrote, "I sought for the greatness and genius of America in her commodious harbors and her ample rivers, and it was not there; in her fertile fields and boundless prairies, and it was not there; in her rich mines and her vast world commerce, and it was not there. Not until I went to the churches of America and heard her pulpits aflame with righteousness did I understand the secret of her genius and her power."

After all he saw and heard in this young republic, Mr. Speaker, de Tocqueville came to believe that the

church was the source of America's nascent greatness. And it should really come as no surprise that from the high steeples and the rows of pews have come some of America's greatest figures and most defining moments.

Chief among them was on March 23, 1775. It was a full year before the Declaration of Independence would be signed in Philadelphia. The seeds of revolution were sown in Virginia. The midnight hour of British tyranny was approaching, forcing the leaders of that Commonwealth to choose their course. The debates were fierce and divided. Some argued for revolution; others for a more diplomatic outcome.

In St. John's Church in Richmond, Virginia, the leaders met again to decide the people's fate, and a fiery orator named Patrick Henry rose from his chair. Murmurs and whispers greeted him. He was known for his lively speeches, entertaining visitors and leaders alike. But the opposition was growing increasingly uncomfortable with his claims and his call for liberty at any cost.

Patrick Henry's speech began like an approaching storm. His words grew with intensity and power. "Besides, sir, he said, we shall not fight our battle alone. There is a just God who presides over the destinies of nations, who will raise up friends to fight our battles for us. The battle, sir, is not to the strong alone, it is to the vigilant, the active, and the brave." And then, with growing momentum, he concluded, "Is life so dear, or peace so sweet, as to be purchased at the price of chains and slavery? Forbid it, Almighty God. I know not what course others may take, but as for me, give me liberty or give me death." This was, in fact, the rhetorical shot heard around the world.

For Patrick Henry, the church was the natural place to say such words. He grew up listening to the passionate teachings of traveling preachers. He studied their movements and tone. He watched as they swayed audiences towards belief.

But religion for Henry was not a side-show or politics, or something to be left to the pulpit. He knew true belief transformed lives, inspiring the heart and steeling the will. He said, "It cannot be emphasized too strongly or too often that this great Nation was founded not by religionists, but by Christians."

Patrick Henry would go on to be Governor of Virginia five times, and was instrumental in drafting its first constitution. But in all his experience, he grew more and more to believe in the importance and the centrality of the Christian faith.

Let us close with the words of Alexis de Tocqueville, who would write some 50 years later of the experiences of the Revolution that, as was the case with Patrick Henry, "Christianity is the companion of liberty in all its conflicts, the cradle of its infancy and the divine source of its claims."

Mr. Speaker, may we ever remember that from the fire of faith comes the future of freedom.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the District of Columbia (Ms. NORTON) is recognized for 5 minutes.

(Ms. NORTON. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. NETHERCUTT) is recognized for 5 minutes.

(Mr. NETHERCUTT addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

CHILD NUTRITION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. HINOJOSA) is recognized for 5 minutes.

Mr. HINOJOSA. Mr. Speaker, today I rise to speak about a serious problem that is affecting the health of our children. I am talking about childhood obesity.

In his recent "Call to action to prevent and decrease overweight and obesity," the surgeon general found that in 1999, over 13 percent of children ages 6 to 11 and 14 percent of adolescents ages 12 to 19 years are overweight. Nationwide, the number of overweight children has tripled over the last two decades.

This has led to a staggering increase in children with Type 2 diabetes, a disease that normally affects senior adults. Sixty percent of obese children ages 5 to 10 have at least one risk factor for heart disease, and 25 percent have two or more factors.

As obese children grow up, they are likely to remain obese as adults, and continue to be at risk for a variety of health problems. If we are to reverse this trend, parents, schools, and the government must work harder to address this problem early, before our children's health is affected.

I want to commend two organizations in my congressional district that are doing just that. The Region One Education Service Center in Edinburg, Texas, and the Texas School Food Service Association have taken the lead in working with our schools to improve nutrition and encourage physical activity to reduce childhood obesity.

Our schools are working hard to reverse this trend toward obesity. Many schools that eliminated physical education programs are reinstating them.

Mr. Speaker, I would like to show that there is a great need for improvement in school meals, with this poster. Our schools are working hard to reverse the trend, as I said earlier. Thanks to the work of the Texas Food Service Association and the National Food Service Association, between 1991

and 1998, there has been a significant trend toward lower levels of fat and saturated fat in school meals. More schools serve low-fat milk and provide healthful food choices in the school cafeterias.

Despite these successes, there still is work to be done. While school breakfasts are close to meeting all Federal nutrition standards, many of the school lunch programs still do not meet Federal nutrition guidelines.

The school meal programs also face competition from vending machines and fundraising food sales at schools that encourage children to skip the more nutritious school meal and eat snacks and sodas that are full of fat, salt, and sugar. Despite their good efforts, our schools cannot do it all. Parents need to take responsibility, and the Federal Government has to do its part.

I urge my colleagues here in Congress to join me in cosponsoring H.R. 2129, the Better Nutrition for Schoolchildren Act of 2001. This bill will give the U.S. Department of Agriculture the authority to extend nutrition guidelines to every food product in our schools, including those outside of the cafeteria.

As we look towards next year's reauthorization of the Child Nutrition Act, I hope that we in Congress will be a partner, not a hindrance, in improving the health and nutrition of our schoolchildren. Our children deserve no less.

Again, I urge my colleagues on both sides of the aisle to join me in cosponsoring H.R. 2129, and let us pass this legislation.

VIOLENCE IN THE MIDDLE EAST

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. FOLEY) is recognized for 5 minutes.

Mr. FOLEY. First, let me commend the House, Mr. Speaker, for its passage of the very, very important retirement security bill today, the Pension Security Act of 2002. I state emphatically, the bill brings about some necessary reform.

My best quote, if you will, relative to this important legislation is, if it is good enough for the brass, it ought to be the same for the middle-class workers. So hopefully we have leveled the playing field, provided some protection, and it is well overdue. I commend the gentleman from Ohio (Mr. PORTMAN) for his outstanding efforts on leading us in this direction. He has been working on this for years.

This is not as a result of Enron, but it certainly has been aided and abetted by that scandal that took place in Texas, so I am thrilled we are able to pass it to the floor today.

Let us turn our attention to a very serious issue that is confronting the world, if you will, and that is what is going on in the Middle East.

Mr. Speaker, I rise today to reiterate my strong support for Israel. There is no escaping the mire of violence that

has taken such a horrible toll in the Middle East. All of us wish collectively that peace would come sooner rather than later for the Israelis and the Palestinians. But in the interim, we must look past the graphic images being broadcast on the nightly news and fully appreciate why the United States has such a stake in what is happening there.

Israel has been a strong, true partner of the United States, anchoring our policies in the Middle East. A strong, true partner, I want to underscore those important words. Whatever second-guessing anyone might have over tactics, Israel must have the ability to protect itself and its people in what has become a dangerous and hostile everyday environment.

From its inception, Israel, which is the most stable democracy in the region, has shown strength and resolve in the face of adversity. The war of terrorism that has increasingly been waged against it has become untenable and inexcusable. Both Israelis and Palestinians now live in a constant state of fear, a fear that their lives may end in a restaurant, an open-air market, or simply crossing the street.

Let me underscore, this is not between military personnel on each side, this is about average citizens, men, women, and children, going about their daily lives, being blown up in the streets of these cities. Before September 11, few Americans could imagine such fear. Even after September 11, it remains hard to envision living our everyday lives with the ghost of death almost hovering. Yet, this is what Israel faces and Israelis face every day.

Since the new wave of terrorism has swept over the land, this is what many Palestinians also face. Yet, the Palestinian leadership continues to escalate the violence, plunging the region further into chaos.

We have a moral obligation to both the Israelis and the Palestinians to forge ahead for peace, but we also must keep in mind that many of Israel's enemies have sworn to destroy the country of Israel. They hate Jews. The Jihad, the Islamic Jihad, the Hezbollah, the Hamas are all desperate to destroy others because of their ethnicity or religious belief.

For Americans, the shells that fall in the Middle East impact us here close to home. Just as the carpenter would not start building a home on a soft sand foundation, we cannot hope to defeat terrorism at home and abroad when terrorism in the Middle East undermines the very foundation of peace we seek to achieve.

This has certainly not been lost on my constituents, many of whom have mothers and fathers, sisters and brothers, cousins, aunts, uncles, and friends in Israel. It should not be lost on anyone who recognizes that the United States cannot fight a successful war against terrorism unless and until the Arab world in general and the Palestinians in particular join us in seeking

peace, not war in the guise of Jihad, and certainly not in martyrdom.

It is a troubling time for us, it is a troubling time for them, and I urge that we all work collectively in support of Secretary Powell's visit there on behalf of the President of the United States. I think it is clear that we must do all we can to achieve peace, but it has to be a just peace for all.

I have often felt that if average Israelis and Palestinians could meet together and sort this out, they probably would. I have very little confidence in Mr. Arafat. I have very little confidence. He attempts to show a good face and smiling demeanor when he talks peace in the United States, as he has many times, and then he goes back home and straps a rifle to his waist and swaggers around and insists that he has no interest in dealing with Israelis, in order to keep his job.

It is about time we stopped worrying about keeping our jobs and started worrying about saving lives. I urge all sides to begin immediately, before more deaths take the innocent.

□ 1700

MIDDLE EAST PEACE AND STABILITY

The SPEAKER pro tempore (Mr. CULBERSON). Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, I wish to say this past week I have called on President Bush to request an emergency meeting of the United Nations security council for the purpose of enforcing a peacekeeping or enforcement action in the Middle East.

In the past few months the world has witnessed a frightening increase in the level of violence in the Middle East. In this 21st century, which we had hoped would be a century of peace, our children have watched on television over 2,000 more people killed in this unnecessary fighting between the Palestinians and Israelis. We have seen lives and neighborhoods destroyed. We have seen children blown up and shot. We have seen the hope for peace diminished. Innocent Israelis and Palestinians have been literally caught in the crossfire of violence.

To date, as many as 1,400 more Palestinians and 500 more Israelis have died. The situation is clearly out of control.

I applaud President Bush's demands that Israel and the Palestinian Authority step back from one another. But the Israelis have refused to comply with the President's demand and the Palestinians have refused to comply with the President's demand.

What happens in the Middle East is crucial to U.S. interests. What happens in the Middle East is crucial to the United States's war against terrorism. What happens in the Middle East is crucial to our economy. The Bush ad-

ministration's initial policy of disengagement for almost an entire year was ill conceived. But with Secretary Powell's mission to the Middle East, we have some indication that the administration realizes how important it is to put the full weight of our diplomatic and foreign policy apparatus behind the search for peace.

The United Nations should approve a peacekeeping or an enforcement action that is international in scope, because if the two sides can be separated and a situation created for dialogue, the world may have an opportunity to move forward.

A U.N.-supported force, after bringing down the level of violence, could help provide for regional stability that is necessary for preserving the State of Israel's continuing right to exist and establishing an independent Palestinian state.

Americans, I suppose, could ask, Why are we there? Is it because of regional stability, or is it because of our own oil interests? Let me reference a complicating factor and urge Americans to think domestically what we can do here at home also to contribute to a solution.

U.S. dependence on imported petroleum remains our chief strategic vulnerability. We watch gas prices going up again, and we see the recession we are beginning to pull out of being triggered perhaps again because of a 20 percent increase in gas prices here at home. Too often our dependence on imported petroleum, including from places like the Middle East, have served as proxy for our foreign policy.

I will insert into the RECORD this week important articles written in USA Today, which the headline reads, "Gas Prices Up 20 Percent and Rising," and its relationship to what is going on in Iraq, in spite of the embargo, providing us with a minimum of 8 percent of the petroleum that we import into this country every day.

I will also supply for the RECORD articles from the New York Times of yesterday talking about the missing energy strategy of the Bush administration.

We have got to get serious here at home. Over half the petroleum we use is imported from very unstable places. It is time for America to become energy independent.

And an article from the Times on Tuesday talking about Venezuela: "Venezuela Woes Worsen as State Oil Company Calls Strike." This is going to impact prices here at home as well.

Who or what is leading our foreign policy? Are we promoting democracy or securing international oil interests as our primary goal? Americans here at home need to demand a declaring of energy independence.

The U.S. Energy Department headed by Spencer Abraham reported this week that consumers can expect no relief at the gas pump before fall and predicted that the average price of regular unleaded gas to be \$1.46 between now

and September, and in many parts of the country it is higher already. In fact, prices went up 23 cents a gallon last month alone, the fastest monthly increase in history.

There is a connection between what is happening internationally and what is happening here at home. The same insatiable appetite for foreign oil drives our domestic policy. We gave over \$4 billion in taxpayer dollars to Enron folks to protect their overseas natural gas and oil interests. If we had spent that money over the last 10 or 15 years on alternative fuel research and development here at home, we might be self-sufficient by now. And that is the direction our country needs to head. We need to have a Manhattan Project to the extent that we involve every single major research university in this country in helping us become energy independent and having a foreign policy again designed for democracy, not just oil.

[From the New York Times, Apr. 9, 2002]

VENEZUELA WOES WORSEN AS STATE OIL COMPANY CALLS STRIKE
(By Juan Forero)

MÉRIDA, VENEZUELA, Apr. 8.—A six-week tussle over President Hugo Chávez's management of the state oil company has turned into his most serious crisis, with exports of oil disrupted by a labor slowdown and a general strike called for Tuesday by labor and business leaders.

"This can only end with the president resigning," Humberto Calderón Berti, a former minister of energy and mines, told a throng of protesting executives from the oil company Petróleos de Venezuela in Caracas. "All Venezuelans from all walks of life, from all social strata, from all the political and ideological sectors, must take part in the stoppage. This is about him or us. It is a choice between democracy or dictatorship."

Government ministers said today that exports of oil and refined products remained normal for Venezuela, the world's No. 4 exporter. But analysts and executives from Petróleos de Venezuela said a five-day work slowdown among oil workers and managers had forced a scaling back of operations at several refineries and a cutback in production at wellheads, all of which has disrupted oil shipments to the United States and other countries.

"The reality is you don't have business as usual," said Larry Goldstein, president of the Petroleum Industry Research Foundation, an industry-supported consulting group in New York. "We believe half to two-thirds of their exports have been impacted. But it is literally an hour-by-hour situation."

Latin America's fourth-largest economy may also grind to a halt on Tuesday, as dissident business leaders have promised, in protest against what they see as Mr. Chávez's autocratic style of governing and his treatment of oil company managers. The first such stoppage took place on Dec. 10. Millions of workers stayed home as part of a growing wave of protests aimed at forcing Mr. Chávez from power.

The showdown that has churned up the current crisis began when Mr. Chávez, a left-leaning former army paratrooper who won office in 1998, took on the management of Petróleos de Venezuela, a behemoth with 40,000 employees. Calling it a "state within a state" that sapped resources while benefiting a small number of high-flying executives, Mr. Chávez in February fired the company president, a general whom he had appointed

months earlier, and appointed five board members with ties to his administration.

For many of the company's 15,000 office workers, who had long celebrated it as a meritocracy known for efficiency and high standards, the president's management decision was enough. The workers organized protests and slowdowns, which have won the support of leaders from business and labor, as well as from the local media, which report every anti-Chávez protest or pronouncement with relish.

With Mr. Chávez refusing to withdraw his appointments or negotiate with dissident oil executives, the office workers and production workers persisted with their slowdowns, which have intensified since last week. At one drilling site on Thursday, two oil workers were killed when fighting broke out between government supporters and opposition party members.

The exact impact on oil production, refining and the transport of crude and oil products was unclear today.

But analysts and executives said the Amuay Cardón refinery, which processes 950,000 barrels of crude daily and is a crucial supplier of finished oil products to the United States, had reduced operations. At least two other installations, the Palito refinery on the north-central coast and Puerto La Cruz to the east halted operations, they said.

Dissident oil executives, reading a statement outside a Petróleos de Venezuela office building in Caracas, said extraction of oil was slowing in the Furrial field in the east while refineries and plants that produce chemicals or distribute natural gas were also ratcheting down.

"Progressively everything is shutting down," said Alberto Quiroz, an oil analyst and former executive at Petróleos de Venezuela (which is known worldwide by its Spanish acronym, Pdvsa, pronounced peh-déh-VEH-sah).

Top government officials, among them Vice President Diosdado Cabello, Energy and Mines Minister Alvaro Silva, and the oil company president, Gastón Parra, have sought to minimize the effects of the slowdown.

"Everything is normal," Mr. Silva told reporters. "Go to the refineries. Everything is normal. There is a small group protesting, but everything is operating normally."

The commander of the armed forces, Gen. Lucas Rincón, announced that the military was beefing up its presence at refineries and oil fields, which are routinely protected by the National Guard.

Through it all, Mr. Chávez has refused to back down or acknowledge that the slowdown could hurt Venezuela, whose economy relies on oil for 80 percent of exports and 50 percent of government revenues.

In a long nationally televised address on Sunday, the president said the military could run oil production and refining sites if necessary. He also took the opportunity to announce that he had fired 7 dissident executives and forced 12 more to retire.

Blowing a soccer referee's whistle and calling the executives "off sides," Mr. Chávez warned about a "subversive movement in neckties" trying to destabilize the country. But, he warned, "I can do away with all of them," he said.

Rafael Sandrea, president of the oil committee of Fedecámaras, a powerful business group, said Mr. Chávez's uncompromising approach had only made the opposition that much more defiant.

"The president has closed the door of reconciliation and opened the doors for war," Mr. Sandrea said. "That is what this is now, war, between the people of PDVSA and the government."

[From USA Today, April 9, 2002]

GAS PRICES UP 20% AND RISING

(By James R. Healey and Barbara Hagenbaugh)

EXPERTS FEAR HIGHER ENERGY COSTS COULD PUT BRAKES ON RECOVERY

Gasoline, blood of the economy and soul of consumers, is 20% more expensive than a month ago—like finding out that sport-utility vehicle you want is now \$30,000 instead of \$25,000, or that the suit you're planning to buy is \$600, not \$500.

That's the kind of price inflation we associate with South American or Eastern European countries that supposedly lack U.S. economic stability.

The bad guys in this case aren't obvious. The big fuel-price climb is due mainly to a complicated switch to summer-blend fuel from winter blend, required by federal air pollution regulations; by the routine and seasonal rise in crude oil prices; and by a strike in Venezuela that's keeping oil off tankers.

Only after ticking through that list are the experts and analysts—if not politicians—ready to name Iraq's just-announced 30-day oil-export boycott, fears that the USA will invade Iraq and the Israeli-Palestinian tinderbox as underlying causes. (Story, 2B.)

Consultants, analysts and other experts think the nationwide average price should peak near \$1.60 a gallon, perhaps within a month. The government said \$1.46 Monday, before the Iraqi export embargo. Experts also foresee a chance of local shortages, as refineries making ingredients for specific summer blends are overtaxed or have mechanical problems.

Not cheery, but not as bad as the last two summers, when fuel passed \$2 in some places and the Midwest ran short because of refinery and pipeline problems.

More broadly and ultimately more important: Fuel price increases could blunt whatever edge the economic rebound has honed, although economists and experts say it shouldn't flatten the recovery.

"I certainly don't regard it as being helpful," says William Poole, president of the Federal Reserve Bank of St. Louis.

Higher energy prices "act like a tax on consumers and businesses. The key is how long the rise is sustained and how high it will go," says Richard Berner, chief economist at Morgan Stanley. If they stay at today's level, it'll cut economic growth 0.4 of a percentage point, which he calls "not a big deal."

Price of benchmark light, sweet crude oil closed at \$26.54 a barrel Monday, and Berner says that would need to "go north of \$35" to be "a serious concern."

Crystal Siembida of Columbiana, Ohio, puts a finer point on it: "I can hardly afford to pay the price of gas as it is," and thinks she might have to switch to carpooling or bicycling to work if the price keeps rising.

Bonnie Sporn of Los Angeles drives a Jeep Cherokee SUV and says she deals differently with her friends now that prices are up: "In the past, if I drove with my friends on an extended trip, I did not expect them to contribute gas money. Things have changed . . . We figure out the portions we all owe for gas before we get out of the car."

Beyond gasoline, higher oil prices also translate into higher heating oil and jet fuel prices. Both have the potential to hurt the recovery. But heating oil season has ended, "so it's not going to crunch household budgets" as it has the past few years, says Paul Taylor, chief economist for the National Automobile Dealers Association.

Still, price hikes will discourage some driving and car buying, he says, and will push on industries such as utilities that generate electricity using oil and chemical manufacturing that uses crude oil.

Jet fuel is the second-biggest cost for airlines, after labor. And that fuel is up about 40% this year, 71 cents a gallon Monday. Airlines, though, often contract in advance for fuel at a specific price to avoid big swings. Airlines and private jet operators don't appear to be buying less. There's been "a lot of fussing," says Ed Hayman, vice president of supply for World Fuel Service to Miami, but "we haven't seen a cutback."

PUSHING COSTS

A look at what's driving prices: Summer-blend gas. The Environmental Protection Agency can fine a service station \$27,500 a day for selling winter-blend fuel after May 1, so the switch has to begin now. Fuel evaporates into the air and pollutes it easier in hot weather, so summer gas is made to compensate.

But there are more than 100 types of summer fuel across the USA. Some, such as in the Mid-west, require ethanol—grain alcohol—to support area farmers. Ethanol must be mixed locally and distributed by trucks. If an ethanol plant or a refinery supplying the special gas to blend with ethanol has trouble, there's an immediate shortage threat, and prices spike.

Last Aug. 14, for instance, the Lemont refinery outside Chicago caught fire, stopping production of fuel needed for the area's unique ethanol blend. By Aug. 16, the average wholesale price there jumped 12.1 cents a gallon, and pump prices averaged 12 cents higher than the day before the fire.

Crude oil prices. They rise and fall with demand. Crude oil accounts for about 38% of gasoline's price. The retail gas price hike "is mostly crude and the changeover to summer fuel. Everybody tries to read more into the numbers, but that explains what's going on," says Alan Struth, oil market consultant at Energy Insights.

Venezuelan strike. Oil-market experts worried more about Venezuela than about the Arab nations Monday. Workers at the state-owned oil company known as PDVSA have been protesting management changes mandated by President Hugo Chavez for about six weeks. Venezuela is a major supplier of gasoline and heating oil to the USA. If a strike there lasted a week, the USA would feel the pinch, Struth says. "It's that tight."

SADDAM MAKES A MOVE

Despite mutterings it would happen, Iraqi leader Saddam Hussein's pledge to sell no oil for 30 days unless Israel withdraws from the West Bank caught traders and politicians by surprise Monday and sent crude prices up.

Reassurances from the U.S. government and international energy officials were prompt, but the boycott nonetheless could cause disruptions. And disruptions cause oil traders fits.

Monday "was another wild and woolly day," says Peter Beutel of Cameron Hanover, which advises companies at risk when energy prices change drastically. "Prices shot up. They did come back down, but at one point, prices did look as if they would roar out of control," he says.

Even before Iraq, "the market was primed," Beutel says. "We are in the pre-summer urgency period. Everybody says, 'If I don't get it now I won't have enough,'" because summer driving uses up stockpiles of gas. This summer's demand is expected to be a record 8.8 million barrels a day.

Even though other members of OPEC—the Organization of Petroleum Exporting Countries—are expected to make up for any Iraqi shortfall, "there is the whole exercise of flipping the switches," Beutel points out.

"Saudi Arabia can go ahead and increase production today, but the oil takes three or four weeks to get out of the ground and into a tanker. And the Saudis won't do that un-

less they're sure he's serious, so there's the whole question of how serious is Saddam?"

It would be May before increases by other oil exporters would show up in the USA.

And to heck with it, anyway, says Sherry Jones Nelson of suburban Minneapolis. She'll take her usual long-distance driving vacation, regardless: "We won't let any company, or country, stop us."

The Missing Energy Strategy

The events of the past year—prominently, a power crisis in California and the terrorist attacks on Sept. 11—gave the nation many reasons to reexamine its energy strategy. Now comes another: Saddam Hussein's decision to halt oil imports to the United States, at least temporarily, in retaliation for Washington's support of Israel.

In an interview with The Wall Street Journal earlier this week, President Bush warned that the recent 20 percent jump in oil prices could threaten economic recovery. While Iraq accounts for about 8 percent of America's imports, according to Washington's estimates, there is spare oil capacity in the system, and thus there should be no petroleum shortage if other Middle Eastern producers refuse to follow Baghdad. Even so, Mr. Hussein's action draws attention once again to America's dependence on imported oil, including oil supplied by the troubled countries of the Persian Gulf. It also points to Washington's sorry failure to devise a balanced strategy to reduce America's reliance on gulf imports and give itself greater maneuvering room in the war on terrorism and other foreign policy issues as well.

The Senate, which has resumed debate on the energy bill, is the last hope for such a strategy. Admittedly, the prospects are dimmer than they were a month ago, when the Senate took up an imperfect but honorable measure cobbled together by Jeff Bingaman of New Mexico and Tom Daschle, the majority leader. The bill included a mix of incentives for new production of fossil fuels, largely natural gas, along with provisions aimed at increasing energy efficiency and the use of renewable energy sources. As such it stood in stark contrast to a grievously one-sided House bill that provided \$27 billion in incentives for the oil, gas and coal industries and less than one-quarter that amount for efficiency. The House bill also authorized the opening of the Arctic National Wildlife Refuge to oil exploration and drilling.

On its first big test, however, the Senate collapsed under industry and union pressure and rejected a provision requiring the first increase in fuel economy standards since 1985. To Mr. Daschle's dismay, Democrats deserted the cause of fuel conservation in droves; New York's senators, Charles Schumer and Hillary Rodham Clinton, were among the honorable exceptions. The only bright moment in a dismal two weeks of debate and defeat was the approval of a "renewable portfolio standard" that would require utilities to generate between 5 and 10 percent of their power from wind, solar and other forms of renewable energy.

There are several things the Democrats and their moderate Republican allies can do to produce a respectable bill. First, they must defeat any amendment aimed at opening the Arctic refuge to drilling. Such an amendment is almost certain to be offered by Frank Murkowski of Alaska, but the facts are not on his side. Every available calculation—including those that accept Mr. Murkowski's inflated estimates of the amount of oil underneath the refuge—show that much more oil can be saved by fuel efficiency than by drilling.

Next, they must resist efforts to weaken the renewable energy provision, while de-

fending energy efficiency measures that have yet to be voted on—chiefly a provision that would increase efficiency standards for air-conditioners by 30 percent. The Senate should also preserve a useful provision that would require companies to give a public accounting of their production of carbon dioxide and other so-called greenhouse gases. On the supply side, it can take steps to improve the reliability of the nationwide electricity grid, while increasing incentives for smaller and potentially more efficient producers of power.

These are modest measures, less ambitious than the Senate's original agenda. But at least they point in the right direction, toward a strategy that includes conservation as well as production.

CONGRATULATIONS TO THE UCONN HUSKIES

The SPEAKER pro tempore (Mr. FORBES). Under a previous order of the House, the gentleman from Connecticut (Mr. SIMMONS) is recognized for 5 minutes.

Mr. SIMMONS. Mr. Speaker, I rise here today on the floor of the House to commend and congratulate the 2002 NCAA women's basketball champions, the University of Connecticut Huskies. This past Saturday in my home State of Connecticut and the State capital, over 150,000 men and women and children, enthusiastic fans, gathered for an hour-long parade in freezing temperatures to congratulate and cheer on these young women who not only have excelled on the basketball court but have excelled academically as well.

The UCONN Huskies team were led by Most Outstanding Player Swin Cash; and they capped a perfect 39-0 season, beating the University of Oklahoma 82 to 70 in what was a closely contested competition. All of the State of Connecticut watched with pride as the Huskies claimed their place as undefeated champions and one of the great all-time women's basketball teams in NCAA basketball history.

The University of Connecticut was founded in 1881 and has a rich tradition of academic excellence as well as athletic ability. The Huskies now add another national championship to their title and their world-class academic reputation. The pride of Eastern Connecticut and Storrs is now the pride of Connecticut and the pride of the United States of America.

It is with great joy, Mr. Speaker, that I commend and honor the UCONN team because I was a teaching assistant at that university for 4 wonderful years. And I want to say to all of those here present and to those listening and to the Huskies, way to go, Lady Huskies. I especially would like to congratulate the players, Sue Bird, Swin Cash, Asjha Jones, Diana Taurasi, and Tamkia Williams, and Head Coach Geno Auriemma, and Associate Head Coach Chris Dailey, the staff, as well as Lou Perkins, the head of the athletic department.

In the words of the cheerleaders of the UCONN Huskies, U-C-O-N-N, UCONN, UCONN, UCONN.

HONORING BILLY CASPER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. HUNTER) is recognized for 5 minutes.

Mr. HUNTER. Mr. Speaker, this is the first day of the Masters, one of the most prestigious sports events in our Nation and, indeed, the world. And I rise today to commemorate the fact that for only the second time in 45 years, one of the great golfers of this decade, in fact, one of the great golfers of this century, Billy Casper, is not playing in the Masters. Billy Casper, won the Masters in 1970. He also won a couple of United States Open championships. In fact, in 1966 at Olympic Country Club in San Francisco, he came from behind in what is considered to be one of the most stunning come-from-behind victories in the history of golf. That is when he was seven shots back to Arnold Palmer with only nine holes to go and Billy Casper, called by Golf Magazine the greatest putter in the history of golf, managed to shoot a 32 on the back nine at Olympic Country Club in San Francisco, one of the most difficult golf tracks in the world. He tied Arnold Palmer for the U.S. Open championship and the next day shot a 69 and beat Arnold Palmer.

If you add to that great win, that great success, and his other U.S. Open success and his 1970 Masters success the fact that Billy Casper won 51 times on the PGA tour, which puts him the sixth winningest golfer of all time, and you add to that the fact that he has the best Ryder Cup record in terms of wins and losses of any player in American history, and you add to that the five Vardon trophies he won on having the lowest scoring average on the U.S. PGA tour, then you have to conclude that Billy Casper indeed is one of the great heroes in sports history.

Mr. Speaker, I am proud that Billy Casper lives in San Diego, California. He still plays golf at San Diego Country Club, where he worked as a caddy as a kid. He has a big heart. He has been a great leader of junior golf in developing young golfers in our country and, indeed, the Nation. Billy Casper is joined by his wife, Shirley, in all of his efforts. He not only is a great athlete and a great teacher but a great person and a great leader in our community.

Mr. Speaker, I know that the greatest golf field in the world is playing in the Masters right now. The game is still on. We will have a leader today; and ultimately on Sunday afternoon we will see who the champion is. But there is one great champion, the 1970's Masters champion who is not playing this time for only the second time in 45 years, but he will be down there because he is a wonderful person. He has a big heart. He loves this event. He loves the tradition. He loves the galleries which in turn love him because he is indeed a great sportsman, one of the great representatives of the game of golf. Billy Casper.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Georgia (Ms. MCKINNEY) is recognized for 5 minutes.

(Ms. MCKINNEY addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

WELFARE REFORM

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentlewoman from Hawaii (Mrs. MINK) is recognized for 60 minutes as the designee of the minority leader.

Mrs. MINK of Hawaii. Mr. Speaker, I appreciate the minority leader's designation of this hour to the discussion of welfare reform.

The Bush administration has submitted various proposals. Most of them go to the technicalities of States' performance and percentages of people that must be in a work program. They have increased the work requirements from 30 hours to 40 hours, with some allowance for the use of 16 hours for other than actual work activity. But in most cases the administration's proposals do not go to the matter of the actual recipients and families that have been affected by the many changes that we made in 1996.

I do not think there is any dispute on either side of the aisle that the provision of the 1996 Welfare Reform Act did dramatically lower the number of welfare recipients all across the country. This was because there were mandatory requirements on work. If you did not work, if you did not register for work, if you did not go into some sort of a work project, you would lose the cash assistance. Therefore, the numbers that fell dramatically to about 50 percent of what they were in 1996 is basically because of the rules that were included in the 1996 TANF legislation.

The requirement to work has removed many of these families from the welfare roles. The problem with just removing these families from the welfare roles, however, is that they have simply gone to dead-end jobs, most of them earning minimum wage, perhaps some as much as \$6 or \$7 an hour, but that is it. So most of these families remain under the poverty level and, therefore, continue to be a responsibility of the national and State governments.

□ 1715

They continue to be eligible for housing support. They continue to be eligible for food stamps. They are eligible for Medicaid allowances and are, of course, as former TANF recipients, going to work under the TANF rules entitled to significant amounts of child care support.

The object of welfare reform, it seems to me, is to really take a look at the outcomes, not simply the mechanisms; what percentage, 50 percent, 60 percent are at work. The mechanisms have been proven to work, partly be-

cause of the flexibility that the States have been given to implement these new requirements.

The real way that we can measure the success of welfare reform, it seems to me, is to look at the quality of the family life after they have left welfare. Are these families earning sufficient funds to really take their family out of poverty, out of all of the support services that the poor in this country are entitled to? I think the answer to that question is that the substantial majority of families that have gone off welfare are still poor, are still below poverty and are still dependent upon the wide variety of support mechanisms that are there for the poor in America. So, therefore, welfare reform, it seems to me, has stopped short of accomplishing the real mission which it should be, and that is to bring these families up to economic self-sufficiency, to a matter of economic security.

One of the real mistakes I think that we made in the enactment of TANF in 1996 is that we did not consider these families as being those that might benefit from education. We have 1 year vocational training as a work activity, but for many of the individuals on welfare, additional educational opportunities ought to be provided. That is the number one goal of legislation that I have introduced in the House last November, which now enjoys 90 cosponsors. And it looks to the welfare reform legislation from the perspective of the recipient, not from the perspective of the mechanic, the percentages that are being held or the percentages that are being gotten off of welfare or all of those mathematical statistical charts.

What we have done in the bill I introduced, H.R. 3113, is to look to see how it impacted the families, and as a result of the legislation, H.R. 3113 currently enjoys the support and endorsement of over 80 organizations throughout the country, the YWCA, the National League of Women Voters, a large number of women's organizations, Business Professional Women, Center for Women Policy Studies, and on and on.

These individuals have not come on to support the legislation as casual observers. In most instances, they have participated in the writing of the bill from, again, the perspective of the child, of the family, of the single parent, to see what we could do to enhance their condition, their standing in our society.

The people on welfare have to be looked at as individuals who want desperately to improve their condition, and I think that the major item that is missing in the current law and in the Bush administration's proposal is the importance of education.

Our bill hopes to consider education as a work activity. The law says one must be in a work activity. So in order to comply with the law, and not to be sanctioned for failure to comply, we must first of all say education is a

work activity, and if we do that, then it would enable families to continue on to junior college, community colleges, major colleges and universities, to get substantial education so that they could really basically improve the future sustainability of the finances of their family. I think that is terribly important.

President Bush for his initial thrust, when he came to this Chamber and addressed the country from that podium there, he said that we must not leave any child behind. Following that message, we passed a major education bill, elementary and secondary education, H.R. 1, as it went through this House, and today it is Public Law 107-110. And the whole approach is that we have to uplift the standards of our public educational system so that no child in America is deprived of the basic opportunities to earn an education and to be somebody to the best of their talents and abilities.

That is the approach I think we should be taking with welfare reform. What can we do to uplift and enhance the quality of life of these children? It is still aid to dependent children, even if we call it temporary assistance for needy families. It is still based upon what can we do to support, help these children.

I think, for instance, that care giving is an important responsibility of all parents, not just those in the middle class and in the upper middle class and the rich, to be free and able to stay home and care for their own children, nurture them, raise them until they are school age. That should be the social, moral responsibility that is recognized by government for all mothers. But we do not do that in TANF. We do not do that in this welfare reform law that we enacted in 1996, nor do we do that in the current reauthorization versions that have been submitted.

Instead, we say that everyone on welfare must go to work, must have a self-sufficiency plan, must perform 40 hours of work, because we must train these individuals to understand what work responsibility is, and we ignore the fact that nurturing a child at home is as important a responsibility as engaging oneself in a minimum wage job.

Furthermore, many of these parents, in a collection of comments that I have been reading through in a publication called *Faces of Change*, written by welfare recipients and those that have left welfare and are now engaged in work, how troubled they are because they come from troubled families. They have many difficulties in their own personal situations. They have sickness in their family, a child that is asthmatic, or there are mental difficulties and other kinds of health difficulties within the family that makes steady employment almost impossible. And certainly if the child care is not adequate, they raise the concerns of the mother even more.

So I think we have to bear in mind that the individuals who are on welfare

need to have this special consideration. The legislation that I have put forth, H.R. 3113, explicitly says for the non-school-age children that the option ought to be left to the mother to decide whether to remain at home and to care for these small children. Even with the children who are in school, the teenagers who are apt to get into trouble, apt to find themselves in difficulty, need a parent at home.

Many of these parents who write their story say the only job they could get was something at night that brought them home at 5 or 6 o'clock in the morning. Their teenaged children were left unsupervised. How can we say that this is in the best interests of the children of these poor families not to have an adult or parent there to supervise them when they are home from school?

We do not have after-school programs also in many places, and as a consequence, school is over after 2 or 3 o'clock, these teenage children, age 14, 15, are out on the street. No one is at home to take care of them, because under our TANF law the parent is required to work; and now, under the new proposals, to work not just 30 hours but to work the full 40 hours, not necessarily in compensated work, because the assumption is that if they cannot get compensated work, they ought to be doing volunteer work or doing workfare for the State or for some charitable institution.

I think that this is all very, very wrong. It does not accord the respect to our mothers in this country who are struggling to raise their children. Just because they are on welfare, they do not love their children any less. They do not have any lesser responsibilities for their children. And therefore it seems to me that we need to put first things first, and that is to enact legislation that carries with it this sense of responsibility of this government and of the States for its smallest citizens, for the children.

So I am hoping that this perspective can come into the discussion and the debate as we work these bills in the two committees. The Committee on Education and the Workforce will be doing markup, the bill was only introduced yesterday, but will be doing markup next Wednesday. And I am told that the Committee on Ways and Means also has an expedited schedule.

The general public is not going to have adequate time to reflect on it, to react to it, to contact the Members of Congress to express their personal objections to the various changes that the administration is proposing, and therefore I take this means today to heighten the awareness of the community out there, which I know is engaged in this subject, and ask for their attention and urge them to contact members of the Committee on Ways and Means and of the Committee on Education and the Workforce and to convey their concerns about the recipients of welfare, or the children and the

children's welfare, and not to enact stricter requirements on work which will make it even harder for these families to survive.

I would like at this time to yield to my colleague who serves on the Committee on Education and the Workforce, has been a stalwart defender of the rights of families and mothers, and works hard to benefit the children of America. She is also a cochair of the Task Force on Welfare Reform on the Democratic side, and she has been working very, very hard to try to amass public opinion, learned discussions about this subject, so that this House can have the benefit of the best information, best records that we can put together. And I am really pleased at this time to yield to my colleague, the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, I thank my colleague the gentlewoman from Hawaii (Mrs. MINK) for the partnership she provides for me in this House of Representatives. I appreciate it so much.

We might want to just talk back and forth a bit, because I think there is a lot we can talk about that I think is so important. My colleague may have said most of it, but I think it bears repeating.

In 1996 when we passed welfare reform, after both of us voting against it because it did not provide a safety net for children, we warned the President, then Bill Clinton, and our colleagues, many of whom agreed with us and voted with us, that getting women off of welfare and into jobs would not be enough, that just could not be the end result of welfare reform, and we warned them that that was particularly important to look at if there was a downturn in our economy.

We did not mean to be prophetic. I mean, we did not want to be seers. We just knew, and there it is. We were right, because this recent economic downturn has exposed the problem that we talked about in the 1996 welfare reform bill.

The guiding principle of 1996 reform was that welfare was the enemy. But the enemy was not welfare, and we knew it. The enemy, and still is, is poverty. When I hear people brag about how successful welfare reform has been, I wonder how they are measuring the success. I know how they are measuring the success. We both do. The success of welfare reform must be measured by how we break down the cycle of poverty, not how many people have left the welfare rolls.

□ 1730

First of all, we do not know that everybody that has left the welfare rolls has gone to work. We just know how many people are no longer on welfare.

We have to measure when we are looking at the success of welfare reform, we have to measure if families have become self-sufficient, which means that they are able to raise their

families, that they have enough money for housing, enough money for health care, they have enough money for child care and the transportation that they need to get back and forth to their jobs and to take their children to school and the market. That is self-sufficiency. We are not saying that they have to live in mini-mansions. We are saying that they have a right to have a roof over their head; and when they are working every day and playing by the rules, they deserve to feel self-sufficient.

President Bush wants to increase the requirement to 40 hours a week from what is currently 30. The only way this requirement is going to work is if we count education as work. I know the gentlewoman just discussed this, but if we want self-sufficiency and women particularly to go from welfare and get out of poverty, we have to see that they have education and training to qualify for jobs that pay a livable wage.

Mr. Speaker, to that end I have introduced legislation called the Education Counts Act. What this does is allows education activities to count as work activities and not be counted against a welfare recipient who is going to school in order in the long run to earn a real living. Rather than penalize them, the clock is ticking and her welfare limits are disappearing while she is at school, I think that we should stop the clock entirely because only by giving women access to education and training will they have the background and skills needed for jobs that pay a livable wage so they can become self-sufficient.

Also, if we expect women to go to school or to go to work, in particular, because that is what the goal of the President's plan is, to put everybody into jobs, whether or not those jobs pay a livable wage, and if we want families to transition into self-sufficiency, we have to make sure that we have good child care available, quality child care and enough child care because we have to ensure that moms can free their minds when they are at work and know that their children are well cared for. By quality and availability I mean also nighttime work and weekend work. That is very important.

A lot of welfare moms are going into jobs working weekends and at night, and there is no child care available for them and for their children. We cannot afford to leave our children behind, and what is happening in the President's proposed welfare bill is flat-funding child care, which does not account for any increase in costs; and in the long run, it means a cut in child care when we need an increase because we are increasing the number of hours that these moms are expected to go to work.

Just as welfare recipients need to be held accountable for working their way off welfare, States have to be held accountable for how they use the taxpayers' money earmarked for welfare programs. The current system rewards

States for lowering the number of families on welfare without any regard to what happens to those families. That could be throwing money out the window because if States are not helping families be self-sufficient, then they are keeping families subsidized in the long run, and that costs money.

Mr. Speaker, I have introduced the Self-Sufficiency Act, which helps States figure out how much it would cost for families in their States to be actually self-sufficient, to take care of their children without any public assistance. Once States have this information, they can better allocate resources to help families move towards self-sufficiency.

In doing that, they will be looking at housing costs, transportation costs, child care costs, and health care costs in their communities. Every community is different. Some are higher and some are lower, and each State can look at that individually.

I know what it means to need a leg up, to need some help, to hit hard times and realize that there is no place else to go but to one's government for help.

Mr. Speaker, 35 years ago my children's father left us when my children were 1, 3 and 5. He was emotionally and mentally ill, and would not get help for his illness, and plain abandoned us. Lucky me, I had good job skills, some college education; and I was able to go to work because my children were solely my responsibility. It never entered my mind that I was not going to take care of them.

In order to have the health care that we needed and the child care coverage and the food stamps, I went on Aid for Dependent Children while I was working. Without that, we would not be where we are today. That was exactly the safety net that it took, and it took 3 years for this mom with an education. I was very healthy; my children were healthy. Members have to know I was assertive. I could get through the system. I knew what needed to be done, but I could not do it without that help. And that was 35 years ago. It is way more difficult for young mothers now. It has never entered my mind, I did it, so can you.

Lucky me, I have four great, grown children; and I am a Member of Congress. My kids are successful in what they do in their lives, and I am here as a Member of the House of Representatives; and I can tell Members, we have paid back what the government invested in us many, many, many times over. But I can also tell Members if we had not had that help, I do not know what we would have done.

Mr. Speaker, I ask the public and I ask my colleagues, please, please, do not be hesitant to invest in young families and in moms who have fallen on hard times. Do not assume that if someone is having a bad time, they did it on their own and deserve it, and if they were worth their salt they would not be there in the first place because

that is just not true for any of the people who are in need today.

Mr. Speaker, I thank the gentlewoman from Hawaii (Mrs. MINK) for being part of the welfare task force with me. We know that the things that we need to be concentrating on child care, education counting as work, flexibility in the welfare system, making sure that individuals who have domestic abuse problems, substance abuse problems, mental illness, language difficulties, making sure that they get an opportunity to get their situations together before the clock starts ticking on them will make a difference in ensuring that welfare makes work pay and count, and these people all count.

Mrs. MINK of Hawaii. Mr. Speaker, I thank the gentlewoman from California (Ms. WOOLSEY) for her contribution here today. It is very powerful, especially her own personal explanation of how much the program meant to her and her young family.

I think that is the message that we have to carry to our colleagues, that these individuals who are on welfare having hard times, they are worthy parents. They care about their children. They do not want to do anything to damage their future; but in many cases they need the time and the education, they need the training and they need the assurance that there is quality child care before they are forced off to work.

I thank the gentlewoman for her contribution to this afternoon. We will engage the House, I am sure, on many of these issues as we go to our markup in the committee and full committee and eventually on the floor.

Ms. WOOLSEY. Mr. Speaker, I thank the gentlewoman and look forward to working with her in getting the message across that the enemy is poverty, the enemy is not welfare or the welfare recipient. The enemy is poverty. If we can get that message across and do something about it, we will have helped welfare recipients as well as the working poor.

Mrs. MINK of Hawaii. Mr. Speaker, I think all of us want to do what we can to provide a safety net. Every President that I have worked with talks about the necessity of a social safety net. That is really all that the welfare program is. It is a safety net for families that have fallen on hard times, have recently gotten divorced, or lost a family member, as my colleague explained in her situation; and they need a helping hand. They should not be treated as though they are of less worth and dignity than all of us. We want their children to have the benefit of the best possible family situation that they could have.

In talking about welfare benefits, I think Members have the feeling that there is this huge amount of money that is being remitted to the families on welfare, and that is certainly not true. The amounts of money that are allocated per month can be gotten by downloading the Congressional Research Service. It has a list of each

State and what they pay each month to a family, family of one, two, three, four, five or six. Let us pick a family of three, that is, a single mom and two children. Alabama's monthly benefit for a family with two children is \$164. One is barely able to keep oneself together with that amount of money; and yet we are saying to these families that they must go out to work and improve themselves. Arkansas is \$204 a month; Delaware, \$338; Florida, \$303; Idaho, \$293; Indiana, \$288; Kentucky, \$262; Louisiana, \$240; Mississippi, \$170; Missouri, \$292; North Carolina, \$272; Ohio, \$373; Oklahoma, \$292; South Carolina, \$203; Tennessee, \$185; Texas, \$201. The list is available for public scrutiny.

I recite this list of those that are in the lower threshold of monthly compensation to give Members an idea that we are not talking about very large sums of money that they are receiving to just tide themselves over. In addition, they have Medicaid and food stamps, and usually housing assistance as well to help them through.

So this work idea is to try to uplift them from their condition of dependency upon the State, but it is not a lot of money. So the notion is how do we uplift them; and it seems to me that the most logical thing that we can do is to help them improve themselves through education and to fill the jobs that are available in teaching, nursing, in high tech, in other kinds of occupations that are available.

The requirement of 40 hours is really punitive in rural America. I represent a rural district. I do not see how we are going to find jobs to fill the requirement of 40 hours. We cannot even fill the 30 hours in my remote areas on the Big Island, on Maui, Molokai, and Kauai.

□ 1745

So I think that there has to be flexibility. Like my colleague the gentlewoman from California (Ms. WOOLSEY) suggested, we have to give States flexibility. We know that they can exempt 20 percent of their population. That is already in the old law. No one seems to be changing that. We have to bear in mind that in some areas of America it is just not possible to get a job, so we have to think of other alternatives. Certainly an alternative is through education to uplift them, to qualify them for professions and careers. If we were satisfied with just a poverty-level compensated job and say, well, we have done our duty under TANF, then what we are saying is that for the rest of time, this family is going to receive food stamps, Medicaid, housing support and other kinds of support services dependent upon a condition of poverty. If they work, they will also get earned income tax credit refunds, \$2,000, \$3,000, \$4,000, \$5,000 depending on how much they earn and how many dependents they have.

This is not the kind of policy that I think we want to perpetuate. What we

want to do is to give these families the hope and the realization that our government policy is going to recognize self-betterment.

And so if a woman, a single parent, wants to go to college, get a degree in nursing or some other profession, that should be encouraged, not discouraged by not considering it part of the program. Our bill is very modest. The gentlewoman from California (Ms. WOOLSEY) and myself in our bills provide that education is a work activity. So when the law says you must be in a work activity, going to school constitutes a work activity, and you cannot be penalized because you decided that you wanted to go to school. The colleges can decide whether the individual is sustaining herself by keeping up her grades and attendance and so forth, and so those kinds of requirements can be levied. Going to college, that family will have Pell grants, undoubtedly, being on welfare. That will help to pay the tuition and other costs of getting there, transportation and so forth. She can probably qualify for work-study, so that she can produce some work hours and earn some money at the same time. This is the sort of support that a safety network ought to provide.

The TANF legislation that we passed in 1996 completely ignores this part of our government responsibility. We have passed countless pieces of legislation having to do with higher education, expanding the opportunity of young people to go to college. It should be no different for a family person who is on the welfare rolls. That person ought to have the same encouragement to get off welfare by getting an education that will then sustain that family at a salary that would lift them up from poverty so that they do not have to rely on food stamps, housing subsidies, earned income tax credit and all the rest of it.

So I think that this comprehensive look at what welfare reform should be, not just getting any job, but lifting people out of poverty, enhancing their condition and making it possible for the children of these families to have the kind of family life, family stability, with somebody who will be able to nurture them, carry them on to college because they themselves have had that opportunity.

It is this outlook that we hope to engage this House further upon as we take this bill up in subcommittee and full committee and bring the matter to the floor. It is expected that this legislation will come before us sometime in early or mid-May. So we have not much time. I invite the enlarged community to contribute their thoughts and views, because there are many, many organizations out there that have contributed already, in the hundreds of meetings that they have conducted where they have consulted with welfare recipients, and we have learned so much from them about the agony of raising families and how difficult it is

to match the requirements of the law with their responsibilities for their families.

I am delighted that we are joined here by my dear friend, the distinguished gentlewoman from North Carolina (Mrs. CLAYTON) who has, I am sure, many words of advice to give us on this very, very important area, particularly rural America which I was just talking about.

Mrs. CLAYTON. I want to thank the gentlewoman very much for holding this special order and raising this whole issue of welfare reform and giving us the opportunity, our colleagues and the American people, to know that this is an issue that is being debated and which the President now has made a proposal. We know Ways and Means will be debating those areas and the committee on which the gentlewoman from Hawaii serves, the Committee on Education and the Workforce.

We have a unique opportunity in the reauthorization of welfare-to-work. The whole idea for welfare-to-work was indeed to move people from dependency to independence. In our State we call it Work First. You have an opportunity to try to find a job. The requirement was to make sure you entered into those kinds of activities to prepare you for a job, and the State, supposedly with the assistance of the Federal Government, was supposed to do that. There was not a policy that we were going to move people out of poverty. That would have been a better one, but it was that we were moving people to work.

But we have learned some things during that process. I would caution us that even some of the things we have learned from State studies may not be as reflective as it should be, because when you understand that our State as a whole may have some areas that work better than others, we have some parts of our States that have more opportunities for jobs, more opportunities to move people to work, and you have some places where I come from, the rural areas, where there is indeed a great decline in low-skill jobs. The economy, as we know, has depressed even those jobs who were upward mobile and diminished agriculture opportunity, so we are having less opportunities to move people into.

Also, when we look at what we are doing or, better still, we are looking at how Governors in the States may use waivers. They use waivers in a variety of ways. Sometimes it is more of an advantage to the Governor or a State than it is to the individual communities for that. For instance, they can use waivers to exempt areas that have a high concentration of unemployment. But if the State looks at it as a whole, they may not see that, because the State as a whole may be in that. So States have not used those waivers to target resources strategically where people have opportunities or people have a lack of opportunities. I think we have some opportunity to refine that.

The area that I am most interested in, and I am interested in all of them, but is the area of day care and child care. The child care capacity for parents who have very young children, if we expect them to be independent, they need to have the assurance that there is adequate, safe, child care and affordable child care. In rural areas, just having the access almost to any child care is not there. And then to have the assurance that you have placed your child in a qualified, well-equipped, designed, child care facility is almost remote, particularly when you understand that child care gets to be expensive.

And if you are not investing in training the personnel, if you are not investing in the infrastructure of the community college, or you are not creating opportunities for nonprofits or faith-based organizations to provide that child care, saying that people should find child care without providing for it I think is not only grossly negligent, I think it is unforgivable when we are expecting that this should be strengthening families.

One whole premise is strengthening families. Very few families I know of think they are strengthening their family if they throw their kids at just any place without regard to the quality and the safety of it, and then when you are not affording the kind of reimbursement.

As you begin to craft the bill, I hope you will understand that there is some differential between our urban communities and our rural communities. The suffering may be the same. I am not arguing against anything that should go in the urban areas, but the infrastructure is different. We have to travel longer periods of time, for a longer distance, for health care, for education, for shopping. We travel for job opportunities. If you are going to ignore the lack of transportation to facilitate this, then you will have put my district and my communities within my district at a disadvantage.

So in order to make sure that there is access to that, child care must be there. That means providing sufficient money for training as well as reimbursement for opportunities.

Then when you think about actually getting to a job, if I live 10 miles from the Wal-Mart that is going to hire me, by the way for \$7 an hour, chances of me getting a car on \$7 and paying for it, hey, as our young kids say, we need to get real if we really want this to happen.

I think we want to make the welfare bill even better. We just do not want to have statistics that say we have moved people off of welfare. Moving people off welfare is much easier, I submit to you, than moving people off welfare into meaningful work, where they can move from dependency to self-sufficiency, working, advancing themselves.

Finally, the whole issue of education of the welfare mother or the welfare adult, that is critical not only to the

economy of our district but also to the stability of that person working and not going from welfare to work, laid off. If we understand, if we invest in their upward mobility by providing them training on a continuous basis, we are investing not only in the statistic of movement from welfare, but we are investing in the vitality of our community and a statistical reality that these people will stay as employed persons.

I commend the gentlewoman for giving attention to this. I just urge as you go forward that you will consider those infrastructure needs as well as the distance and the economies of scale and what that means in putting the same kinds of programs that we would have in urban areas, where things are relatively close to each other, and there may be a sufficient infrastructure there that would accommodate day care, where there are well-established church day cares or well-established nonprofits, and even for-profits.

They are not in my communities, unfortunately. I wish they were there. We have to find a way to give some incentives to those nonprofits or faith-based organizations investing in child care. We have to find ways of accommodating transportation in rural areas for the purpose of both education as well as for employment. We also have to find adequate resources to reimburse people for the day care.

Finally, the education of our mothers and people who are dependent is not only investing in that individual, which is worthy in and of itself, but we are investing in the vitality of that community and the stability of that community.

Again, I commend the gentlewoman for her leadership in this area. By the way, I say to you, we are trying to relieve the responsibility of food stamps out of day care. I am a part of the agriculture conference committee, and part of the idea as we considered that was to try to reform and bring new quality to food stamps. You remember, food stamps and welfare reform are partners. If you examine who is getting food stamps now, a little better than half of the people who are getting food stamps are working families. And if you take who those people may be, they are children of working families as well as their parents; and then senior citizens and children, just combine those alone, are over 60 percent.

So making food stamps and the transition from welfare or Work First to work, having the ability to supplement that \$7-an-hour job I talked about with food stamps with a family of three, that is a big help. And so we want to make sure that that goes in tandem with it. Just as Medicaid has been made a little easier for the transition, we are trying to make an alignment between Medicaid and welfare reform and food stamps, so that this will be a part of the package we put together in enabling the tools for a person moving from welfare to have those additional

tools to supplement a very low-wage job.

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Mrs. MINK of Hawaii. Mr. Speaker, reclaiming my time, I commend the gentlewoman for her contributions, and I certainly hope that in her conference on the farm bill that she can work this alignment so that the families that are moving off of welfare getting their minimum wage job will have easier access to food stamps.

Right now we are told that many of them fall between the cracks, because the eligibility requirements are so different and nobody is there to help them qualify, so many of these families, though they are eligible income-wise, are not really getting this benefit at all.

Mrs. CLAYTON. We are very hopeful, and I think it is moving in the right direction.

Mrs. MINK of Hawaii. Wonderful. We had the opportunity to hear from Secretary Tommy Thompson the other day. He came and testified about the importance of child care. I want to say that I was very impressed with the passion with which he made his comments about child care, that you cannot have a national policy that requires work of single-parent families unless you provide adequate quality child care. So I think we have a friend there as far as the concept is concerned, but the mechanics of making this statement a reality for families is still short. It is not there.

In our bill, H.R. 3113, we say that if the government is not able to find child care for a family that it is requiring work activity out of, then the family is exempt from finding work activity until such child care can be made available, and the clock stops. It seems to me that is simple justice. If we believe that the work requirement cannot be enforced without child care, then we cannot put sanctions and penalties upon the family for something over which they have no control.

So I am hoping that we can work together with the administration and with Secretary Thompson to clarify this, because he feels that this is already current law, that if you cannot get child care, you are not required to go to work. But there is nothing in the legislation that exempts such a family from sanctions or from other kinds of prohibitions. So I hope we can work that out.

Child care is so important. There is a set-aside that requires the States, from the Federal monies it gets under TANF, to improve child care under the quality child care requirement. And I think that we need to up that ante, perhaps double it from 4 to 8 percent, so that more attention is given to quality child care services and not just simply child care and assume that the State has fulfilled its responsibility by finding any child care that might be available.

I think that these parents are entitled to have quality child care, and we

should be moving in that direction. Part of the problem is that we are not able to pay the individuals who work in these child care centers sufficient income to make it worthwhile for them to qualify as early childhood education personnel, so with their low pay and low expectations, we cannot upgrade the child care centers in the way we should be.

There are many aspects to this issue that are very important. The stop-the-clock things on education and child care, drug treatment services that might be needed by that family, domestic violence, sexual abuse conditions, any severe mental illness or physical illness ought to exempt that family from the work requirements.

So I hope that we look at this legislation from the perspective of the family and how hard they are struggling to comply, rather than impose new requirements that are based upon percentage of participation or performance rates that the States are required to do. Rural America cannot possibly meet the 70 percent work requirement that the administration is asking. There are simply no jobs to which these individuals could find any sort of satisfaction of employment.

So I think we have to bear that in mind and find some way in which we can soften the requirement based upon flexibilities given to the States or waiver provisions given to the States where we have large rural populations with high unemployment rates. I think that is a very important quest that we must make in this reauthorization.

Mr. Speaker, I thank you very much for giving me the opportunity to expound on an issue that is very important to me and to 90 other Members of the House. I include for the RECORD a list of the 80 organizations that endorse H.R. 3113.

GROUPS THAT HAVE ENDORSED H.R. 3113, THE TANF REAUTHORIZATION ACT

1. Acercamiento Hispano/Hispanic Outreach.
2. African American Women's Clergy Assn.
3. American Civil Liberties Union.
4. Americans for Democratic Action.
5. American Friends Service Committee.
6. Arizona Coalition Against Domestic Violence.
7. Ayuda Inc.
8. Business and Professional Women/USA.
9. California Food Policy Advocates.
10. California Welfare Justice Coalition.
11. Campaign for America's Future.
12. Center for Battered Women's Legal Services at Sanctuary for Families.
13. Center for Community Change.
14. Center for Third World Organizing.
15. Center for Women Policy Studies.
16. The Center for Women and Families.
17. Center on Fathers, Families and Public Policy.
18. Central Conference of American Rabbis.
19. Chicago Women in Trades.
20. Child Care Action Campaign.
21. Child Care Law Center.
22. Choice USA.
23. Church Women United.
24. College Opportunity to Prepare for Employment (COPE).
25. Communications Workers of America.
26. Covenant House Washington.

27. Family Violence Prevention Fund.
28. Florida CHAIN (Communications Health Information Action Network).
29. Friends Committee on National Legislation (Quaker).
30. (GROWL) Grass Roots Organizing for Welfare Leadership.
31. Harbor Communities Overcoming Violence (HarborCOV).
32. Harlem Fight Back.
33. HELP USA.
34. Human Services Coalition of Dade County, Inc.
35. Hunger Action Network of NYS.
36. Jewish Women International.
38. Los Angeles Coalition to End Hunger & Homelessness.
39. Mothers on the Move Committee of the Philadelphia Unemployment Project.
40. National Association of Service and Conservation Corps.
41. National Association of Commissions for Women.
42. National Center on Poverty Law.
43. National Coalition Against Domestic Violence.
44. National Coalition of 100 Black Women, Metropolitan Atlanta Chapter
45. National Council of La Raza.
46. National Employment Law Project.
47. National League of Women Voters of the U.S.
48. National Organization for Women.
49. National Urban League.
50. National Welfare Rights Union.
51. NETWORK, A National Catholic Social Justice Lobby.
52. New Directions Center.
53. New Mexico Center on Law & Poverty.
54. Nontraditional Employment for Women.
55. NOW Legal Defense and Education Fund.
56. North Carolina Coalition Against Domestic Violence.
57. Ohio Domestic Violence Network.
58. Oregon Law Center.
59. Public Justice Center.
60. Research Institute for Independent Living.
61. RESULTS.
62. Rural Law Center of NY, Inc.
63. Safe Horizon.
64. Southeast Asia Resource Action Center.
65. The Miles Foundation.
66. The Union of American Hebrew Congregations.
67. Unitarian Universalist Association of Congregations.
68. United States Student Association.
69. Welfare Made A Difference Campaign.
70. Welfare Rights Organizing Coalition.
71. Welfare-to-work Advocacy Project.
72. Wider Opportunities for Women.
73. Wisconsin Council on Children and Families.
74. Women and Poverty Public Education Initiative.
75. Women's Committee of 100.
76. Women Employed.
77. Women Empowered Against Violence, Inc. (WEAVE).
78. Women's Housing and Economic Development Corporation (WHEDCO).
79. Workforce Alliance.
80. YWCA of the USA.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. ROUKEMA (at the request of Mr. ARMEY) for today on account of illness.
Mr. BUYER (at the request of Mr. ARMEY) for today after 1:00 p.m. on account of medical reasons.

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. HOYER) to revise and extend their remarks and include extraneous material:)

Ms. NORTON, for 5 minutes, today.

Mr. HINOJOSA, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Ms. MCKINNEY, for 5 minutes, today.

(The following Members (at the request of Mr. FOLEY) to revise and extend their remarks and include extraneous material:)

Mr. PENCE, for 5 minutes, today.

Mr. NETHERCUTT, for 5 minutes, today.

Mr. FOLEY, for 5 minutes, today.

Mr. SIMMONS, for 5 minutes, today.

Mr. HUNTER, for 5 minutes, today.

BILLS PRESENTED TO THE PRESIDENT

Jeff Trandahl, Clerk of the House reports that on April 9, 2002 he presented to the President of the United States, for his approval, the following bills.

H.R. 1432. To designate the facility of the United States Postal Service located at 3698 Inner Perimeter Road in Valdosta, Georgia, as the "Major Lyn McIntosh Post Office Building".

H.R. 1748. To designate the facility of the United States Postal Service located at 805 Glen Burnie Road in Richmond, Virginia, as the "Tom Biley Post Office Building".

H.R. 1749. To designate the facility of the United States Postal Service located at 685 Turnberry Road in Newport News, Virginia, as the "Herbert H. Bateman Post Office Building".

H.R. 2577. To designate the facility of the United States Postal Service located at 310 South State Street in St. Ignace, Michigan, as the "Bob Davis Post Office Building".

H.R. 2876. To designate the facility of the United States Postal Service located in Harlem, Montana, as the "Francis Bardanouve United States Post Office Building".

H.R. 2910. To designate the facility of the United States Postal Service located at 3131 South Crater Road in Petersburg, Virginia, as the "Norman Sisisky Post Office Building".

H.R. 3072. To designate the facility of the United States Postal Service located at 125 Main Street in Forest City, North Carolina, as the "Vernon Tarlton Post Office Building".

H.R. 3379. To designate the facility of the United States Postal Service located at 375 Carlls Path in Deer Park, New York, as the "Raymond M. Downey Post Office Building".

ADJOURNMENT

Mrs. MINK of Hawaii. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 5 minutes p.m.), under its previous order, the House adjourned until Monday, April 15, 2002, at 2 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

6143. A letter from the Assistant General Counsel for Regulatory Law, Department of Energy, transmitting the Department's final rule—Industrial Hygiene Practices [DOE-STD-6005-2001] received April 5, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6144. A letter from the Assistant General Counsel for Regulatory Law, Department of Energy, transmitting the Department's final rule—Management Assessment And Independent Assessment Guide [DOE-STD-6005-2001] received April 5, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6145. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of State Plans for Designated Facilities and Pollutants; States of Kansas, Missouri and Nebraska; Correction [FRL-7161-9] received March 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6146. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's final rule—Schedule of Fees for Consular Services, Department of State and Overseas Embassies and Consulates—received March 14, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

6147. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's final rule—Amendment to the List of Proscribed Destinations—received March 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

6148. A letter from the Chairman, Broadcasting Board Of Governors, transmitting the Annual Program Performance Report on the FY 2001 Performance Plan; to the Committee on Government Reform.

6149. A letter from the Acting Chairman, Consumer Product Safety Commission, transmitting the Fiscal Year 2001 Annual Program Performance Report; to the Committee on Government Reform.

6150. A letter from the Director, Holocaust Memorial Museum, transmitting the Annual Performance Report for Fiscal Year 2001; to the Committee on Government Reform.

6151. A letter from the Director, Institute of Museum and Library Services, transmitting the FY 2001 Annual Program Performance Report; to the Committee on Government Reform.

6152. A letter from the Administrator, National Aeronautics and Space Administration, transmitting the Administration's FY 2001 Performance Report; to the Committee on Government Reform.

6153. A letter from the Secretary, Department of the Interior, transmitting the Department's legislative proposal to reauthorize appropriations for the Bureau of Land Management under the Federal Land Policy and Management Act; to the Committee on Resources.

6154. A letter from the Secretary, Department of Commerce, transmitting the biennial report regarding the activities of the National Oceanic and Atmospheric Administration's Chesapeake Bay Office Activities; to the Committee on Resources.

6155. A letter from the Assistant Attorney General, Department of Justice, transmitting a draft of proposed legislation to establish the crime of attempted international parental kidnapping, and for other purposes; to the Committee on the Judiciary.

6156. A letter from the Chairman, STB, Department of Transportation, transmitting the Department's final rule—Regulations Governing Fees For Services Performed In Connection With Licensing And Related

Services—2002 Update—received March 14, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6157. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Pilatus Britten-Norman Limited BN-2, BN-2A, BN-2B, BN-2T, and BN2A MK. III Series Airplanes [Docket No. 2001-CE-39-AD; Amendment 39-12639; AD 2002-02-11] (RIN: 2120-AA64) received March 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6158. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model DC-8 Series Airplanes [Docket No. 97-NM-242-AD; Amendment 39-12646; AD 2002-03-05] (RIN: 2120-AA64) received March 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6159. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A330 and A340 Series Airplanes [Docket No. 2001-NM-153-AD; Amendment 39-12635; AD 2002-02-07] (RIN: 2120-AA64) received March 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6160. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 707 and 720 Series Airplanes [Docket No. 2000-NM-381-AD; Amendment 39-12630; AD 2002-02-02] (RIN: 2120-AA64) received March 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6161. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30298; Amdt. No. 2096] received March 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6162. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Model HH-1K, TH-1F, TH-1L, UH-1A, UH-1B, UH-1E, UH-1F, UH-1H, UH-1L, UH-1P, and Southwest Florida Aviation Model SW204, SW204HP, SW205, and SW205A-1 Helicopters, Manufactured by Bell Helicopter Textron, Inc. for the Armed Forces of the United States [Docket No. 2001-SW-14-AD; Amendment 39-12628; AD 2002-01-31] (RIN: 2120-AA64) received March 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 476. A bill to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions (Rept. 107-397). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. H.R. 2628. A bill to direct the Secretary of

the Interior to conduct a study of the suitability and feasibility of establishing the Muscle Shoals National Heritage Area in Alabama, and for other purposes (Rept. 107-398). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Transportation and Infrastructure. House Concurrent Resolution 347. Resolution authorizing the use of the Capitol grounds for the National Peace Officers' Memorial Service (Rept. 107-399). Referred to the House Calendar.

Mr. YOUNG of Alaska: Committee on Transportation and Infrastructure. House Concurrent Resolution 348. Resolution authorizing the use of the Capitol grounds for the National Book Festival (Rept. 107-400). Referred to the House Calendar.

Mr. YOUNG of Alaska: Committee on Transportation and Infrastructure. House Concurrent Resolution 354. Resolution authorizing the use of the Capitol Grounds for the District of Columbia Special Olympics Law Enforcement Torch Run (Rept. 107-401). Referred to the House Calendar.

Mr. YOUNG of Alaska: Committee on Transportation and Infrastructure. House Concurrent Resolution 356. Resolution authorizing the use of the Capitol Grounds for the Greater Washing Soap Box Derby (Rept. 107-402). Referred to the House Calendar.

Mr. BOEHNER: Committee on Education and the Workforce. H.R. 3839. A bill to reauthorize the Child Abuse Prevention and Treatment Act, and for other purposes; with an amendment (Rept. 107-403). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOEHNER: Committee on Education and the Workforce. H.R. 3801. A bill to provide for improvement of Federal education research, statistics, evaluation, information, and dissemination, and for other purposes; with an amendment (Rept. 107-404). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Transportation and Infrastructure. H.R. 3983. A bill to ensure the security of maritime transportation in the United States against acts of terrorism, and for other purposes; with an amendment (Rept. 107-405). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. SENSENBRENNER:

H.R. 4167. A bill to extend for 8 additional months the period for which chapter 12 of title 11 of the United States Code is reenacted; to the Committee on the Judiciary.

By Mr. DELAY:

H.R. 4168. A bill to extend the suspension of duty on Methyl thioglycolate; to the Committee on Ways and Means.

By Mr. PAUL (for himself, Mr. BARR of

Georgia, Mr. HOSTETTLER, Mr. PETRI, Mr. GOODE, Mr. WAMP, Mr. BARTLETT of Maryland, Mr. NORWOOD, Mr. KERNS, Mr. FLAKE, Mr. CRANE, Mr. KINGSTON, Mr. MANZULLO, Mr. DUNCAN, Mr. SCHAFER, Mr. WELDON of Florida, Mr. SESSIONS, Mr. ROHR-ABACHER, and Mr. TANCREDO):

H.R. 4169. A bill to provide that the International Criminal Court is not valid with respect to the United States, and for other purposes; to the Committee on International Relations.

By Mr. FLETCHER:

H.R. 4170. A bill to amend the Public Health Service Act to provide for cooperative governing of health insurance policies

by primary and secondary States and to provide assistance to States to promote the establishment of qualified high risk pools, to provide financial incentives to encourage health coverage for employees and individuals, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BAKER:

H.R. 4171. A bill to suspend temporarily the duty on 9,10-Anthracenedione, 1,8-bis(phenylthio)-; to the Committee on Ways and Means.

By Mr. BAKER:

H.R. 4172. A bill to suspend temporarily the duty on a mixture of 9,10-Anthracenedione, 1,8-dihydroxy-4-nitro-5-(phenylamino)- and 9,10-Anthracenedione, 1,5-diaminochloro-4,8-dihydroxy-; to the Committee on Ways and Means.

By Mr. BAKER:

H.R. 4173. A bill to suspend temporarily the duty on Chromate(3-), bis[3-(hydroxy-kappa.O)-4-[[2-(hydroxy-kappa.O)-1-naphthalenyl]azo-kappa.N1]-7-nitro-1-naphthalenesulfonato(3-)]-, tri sodium; to the Committee on Ways and Means.

By Mr. BAKER:

H.R. 4174. A bill to suspend temporarily the duty on a mixture of 9,10-Anthracenedione, 1,5-dihydroxy-4-nitro-8-(phenylamino)- and 9,10-Anthracenedione, 1,8-dihydroxy-4-nitro-5-(phenylamino)-; to the Committee on Ways and Means.

By Mr. BARTON of Texas:

H.R. 4175. A bill to suspend temporarily the duty on hand held scanners; to the Committee on Ways and Means.

By Mr. BARTON of Texas:

H.R. 4176. A bill to suspend temporarily the duty on scanners not combined with a clock; to the Committee on Ways and Means.

By Mr. BARTON of Texas:

H.R. 4177. A bill to suspend temporarily the duty on mobile based scanners valued at more than \$40; to the Committee on Ways and Means.

By Mr. CHABOT:

H.R. 4178. A bill to extend the suspension of duty on chloro amino toluene; to the Committee on Ways and Means.

By Mrs. CHRISTENSEN (for herself, Mrs. JOHNSON of Connecticut, and Mr. McNULTY):

H.R. 4179. A bill to amend the Harmonized Tariff Schedule of the United States with respect to the production incentive certificate program for watch and jewelry producers in possessions of the United States, including the Virgin Islands, Guam, and American Samoa; to the Committee on Ways and Means.

By Mr. DOGGETT (for himself, Mr. SHAYS, Mr. MEEHAN, Mr. RANGEL, Mr. STARK, Mr. MATSUI, Mr. COYNE, Mr. LEVIN, Mr. McDERMOTT, Mr. LEWIS of Georgia, Mr. NEAL of Massachusetts, Mr. McNULTY, Mr. JEFFERSON, Mr. TANNER, Mr. POMEROY, Mr. ALLEN, Mr. ANDREWS, Mr. BENTSEN, Mr. DAVIS of Florida, Mr. GONZALEZ, Mr. GRAHAM, Mr. GREEN of Texas, Mr. HALL of Ohio, Ms. JACKSON-LEE of Texas, Mrs. MINK of Hawaii, Mr. MOORE, Mr. PLATTS, Mr. SANDLIN, and Mr. TURNER):

H.R. 4180. A bill to amend section 527 of the Internal Revenue Code of 1986 to eliminate notification and return requirements for State and local political committees and candidate committees and avoid duplicate reporting by certain State and local political committees of information required to be reported and made publicly available under

State law, and for other purposes; to the Committee on Ways and Means.

By Mr. GUTKNECHT (for himself, Mr. GILMAN, Mr. SWEENEY, Mr. SABO, Mr. SANDERS, and Mr. HASTINGS of Florida):

H.R. 4181. A bill to amend the Internal Revenue Code of 1986 to prohibit pension plan amendments reducing the rate of future benefit accrual, subject to a safe harbor where the plan provides notice of the amendment and an election to continue benefit accruals under the former plan instead of the amended plan; to the Committee on Ways and Means.

By Ms. HARMAN:

H.R. 4182. A bill to suspend temporarily the duty on cases for certain toys; to the Committee on Ways and Means.

By Ms. HARMAN:

H.R. 4183. A bill to suspend temporarily the duty on bags for certain toys; to the Committee on Ways and Means.

By Ms. HARMAN:

H.R. 4184. A bill to suspend temporarily the duty on certain children's products; to the Committee on Ways and Means.

By Ms. HARMAN:

H.R. 4185. A bill to suspend temporarily the duty on certain children's products; to the Committee on Ways and Means.

By Ms. HARMAN:

H.R. 4186. A bill to suspend temporarily the duty on cases for certain children's products; to the Committee on Ways and Means.

By Mr. HORN (for himself, Ms. SCHAKOWSKY, Mr. BURTON of Indiana, Mr. WAXMAN, Mr. OSE, Mr. FRANK, Mr. McDERMOTT, Mr. UDALL of Colorado, Mr. BENTSEN, Mr. ALLEN, Mr. BLAGOJEVICH, Mr. CLAY, Mr. CUMMINGS, Mr. DAVIS of Illinois, Mr. KUCINICH, Mr. LANTOS, Mr. LYNCH, Mrs. MALONEY of New York, Ms. NORTON, Mr. OWENS, Mr. TOWNS, Mr. LATOURETTE, and Mr. BAIRD):

H.R. 4187. A bill to amend chapter 22 of title 44, United States Code, popularly known as the Presidential Records Act, to establish procedures for the consideration of claims of constitutionally based privilege against disclosure of Presidential records; to the Committee on Government Reform.

By Mr. HOUGHTON:

H.R. 4188. A bill to suspend temporarily the duty on certain 12-volt batteries; to the Committee on Ways and Means.

By Mr. HULSHOF:

H.R. 4189. A bill to suspend temporarily the duty on cyclanilide; to the Committee on Ways and Means.

By Mr. HULSHOF:

H.R. 4190. A bill to suspend temporarily the duty on ethoprop; to the Committee on Ways and Means.

By Mr. HULSHOF:

H.R. 4191. A bill to suspend temporarily the duty on foramsulfuron; to the Committee on Ways and Means.

By Mr. KIND (for himself, Mrs. EMERSON, Mr. PETRI, Mr. BAIRD, Mr. DAVIS of Florida, Mr. KUCINICH, Ms. LEE, and Mr. SCHIFF):

H.R. 4192. A bill to amend the Richard B. Russell National School Lunch Act to establish pilot projects to support and evaluate the provision of before-school activities that advance student academic achievement and encourage the establishment of, and increase participation in, school breakfast programs; to the Committee on Education and the Workforce.

By Mr. LANGEVIN (for himself, Mr. ABERCROMBIE, Mr. BLAGOJEVICH, Ms. BROWN of Florida, Mr. CLAY, Mr. CAPUANO, Ms. DELAURIO, Mr. FRANK, Mr. LEWIS of Georgia, Ms. LOFGREN, Mrs. MCCARTHY of New York, Mr.

McGOVERN, Mr. MEEHAN, Mr. MORAN of Virginia, Mrs. MORELLA, Mr. PASCRELL, Mr. SERRANO, Mr. SHAYS, Mr. STARK, Mrs. TAUSCHER, Mr. WAXMAN, Mr. WEXLER, and Ms. WOOLSEY):

H.R. 4193. A bill to ensure greater accountability by licensed firearms dealers; to the Committee on the Judiciary.

By Mr. LEWIS of Georgia:

H.R. 4194. A bill to amend the Internal Revenue Code of 1986 to provide an increased low-income housing credit for property located immediately adjacent to qualified census tracts; to the Committee on Ways and Means.

By Mr. MANZULLO:

H.R. 4195. A bill to suspend temporarily the duty on certain custom-made automotive magnets; to the Committee on Ways and Means.

By Mr. MANZULLO:

H.R. 4196. A bill to suspend temporarily the duty on certain epoxy molding compounds; to the Committee on Ways and Means.

By Mr. MARKEY (for himself and Mr. WILSON of South Carolina):

H.R. 4197. A bill to suspend temporarily the duty on certain high-performance loudspeakers; to the Committee on Ways and Means.

By Mr. MARKEY (for himself and Mr. WILSON of South Carolina):

H.R. 4198. A bill to suspend temporarily the duty on parts for use in the manufacture of certain high-performance loudspeakers; to the Committee on Ways and Means.

By Mrs. MCCARTHY of New York:

H.R. 4199. A bill to suspend temporarily the duty on Hydrated Hydroxypropyl Methylcellulose; to the Committee on Ways and Means.

By Mr. McCRERY:

H.R. 4200. A bill to suspend temporarily the duty on dimethyldicykan; to the Committee on Ways and Means.

By Mr. McCRERY:

H.R. 4201. A bill to suspend temporarily the duty on triacetone diamine; to the Committee on Ways and Means.

By Mr. McCRERY:

H.R. 4202. A bill to suspend temporarily the duty on Polycaprolactam-pigment concentrate; to the Committee on Ways and Means.

By Mr. McCRERY:

H.R. 4203. A bill to suspend temporarily the duty on Polycaprolactam; to the Committee on Ways and Means.

By Mr. McCRERY:

H.R. 4204. A bill to suspend temporarily the duty on Poly (hexamethylene adipamide); to the Committee on Ways and Means.

By Mrs. MEEK of Florida:

H.R. 4205. A bill to authorize the Secretary of Housing and Urban Development to permit public housing agencies to transfer unused low-income rental assistance amounts for use under the HOME investment partnerships program or for activities eligible for assistance from the public housing Capital Fund; to the Committee on Financial Services.

By Mr. MOLLOHAN:

H.R. 4206. A bill to reduce temporarily the duty on ethylene/tetrafluoroethylene copolymer (ETFE); to the Committee on Ways and Means.

By Ms. NORTON (for herself and Mrs. MORELLA):

H.R. 4207. A bill to permit statues honoring citizens of the District of Columbia to be placed in Statuary Hall in the same manner as statues honoring citizens of the States are placed in Statuary Hall, and for other purposes; to the Committee on House Administration.

By Mr. PETERSON of Minnesota:

H.R. 4208. A bill to approve the use or distribution of judgment funds of the Red Lake

Band of Chippewa Indians of Minnesota by the Senate and the House of Representatives, and for other purposes; to the Committee on Resources.

By Mr. ROEMER (for himself, Mr. HOUGHTON, Mr. GILMAN, Mr. BERMAN, Mr. ACKERMAN, Ms. ROS-LEHTINEN, Mr. ROHRABACHER, Mr. MORAN of Virginia, Mr. McDERMOTT, Mr. GREENWOOD, Mr. LUTHER, Mr. KIRK, Mr. HALL of Ohio, Mr. DICKS, Mr. CARSON of Oklahoma, Mr. CONYERS, Mrs. MEEK of Florida, Ms. ESHOO, Mrs. DAVIS of California, Mr. HORN, Mr. ALLEN, Mr. MOORE, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. BISHOP, Ms. CARSON of Indiana, Mr. McNULTY, Mr. FROST, Mr. PASTOR, Ms. MILLENDER-McDONALD, Mrs. MORELLA, Mr. PRICE of North Carolina, Mr. LARSON of Connecticut, Mr. SABO, Mr. BOEHLERT, and Mr. BRADY of Pennsylvania):

H.R. 4209. A bill to amend the Foreign Assistance Act of 1961 to reauthorize microenterprise assistance programs under that Act and to expand sustainable poverty-focused microenterprise programs under that Act by implementing improved poverty measurement methods under those programs; to the Committee on International Relations.

By Mrs. ROUKEMA (for herself and Mr. TIERNEY):

H.R. 4210. A bill to reauthorize and improve the program of block grants to States for temporary assistance for needy families; to the Committee on Ways and Means.

By Mr. SESSIONS:

H.R. 4211. A bill to suspend temporarily the duty on triethyleneglycol-bis-(3-tert-butyl-4-hydroxy-5-methylphenyl)propionate; to the Committee on Ways and Means.

By Mr. SHERMAN (for himself, Mr. HUNTER, and Mr. WYNN):

H.R. 4212. A bill to direct the Secretary of Energy to conduct a study of the effects of year-round daylight saving time on fossil fuel usage; to the Committee on Energy and Commerce.

By Mr. SMITH of Washington:

H.R. 4213. A bill to amend title 38, United States Code, to extend to all members of the Armed Forces eligible for educational assistance under the Montgomery GI Bill the authority to transfer entitlement to such educational assistance to dependents; to the Committee on Veterans' Affairs, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SMITH of Washington:

H.R. 4214. A bill to amend titles 10 and 38, United States Code, to extend the time limitation for use of eligibility and entitlement to educational assistance under the Montgomery GI Bill; to the Committee on Veterans' Affairs, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. WILSON of New Mexico:

H.R. 4215. A bill to amend title XVIII of the Social Security Act to apply a uniform geographic cost-of-practice index value for physicians' services furnished under the Medicare Program of 1; 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. ISTOOK (for himself, Mr. STENHOLM, Mr. NUSSLE, Mr. ADERHOLT,

Mr. AKIN, Mr. BACHUS, Mr. BAKER, Mr. BARR of Georgia, Mr. BARTLETT of Maryland, Mr. BARTON of Texas, Mr. BASS, Mr. BILIRAKIS, Mr. BISHOP, Mr. BLUNT, Mr. BOEHNER, Mrs. BONO, Mr. BOOZMAN, Mr. BRADY of Texas, Mr. BROWN of South Carolina, Mr. BRYANT, Mr. CALVERT, Mr. CANNON, Mr. CANTOR, Mr. CASTLE, Mr. CHABOT, Mr. CHAMBLISS, Mr. COMBEST, Mr. CONDIT, Mr. CRANE, Mr. CRENSHAW, Mr. CULBERSON, Mr. CUNNINGHAM, Mrs. JO ANN DAVIS of Virginia, Mr. DEAL of Georgia, Mr. DELAY, Mr. DEMINT, Mr. DOOLITTLE, Mr. DUNCAN, Ms. DUNN, Mr. EDWARDS, Mr. ENGLISH, Mr. FLETCHER, Mr. FORBES, Mr. GANSKE, Mr. GEKAS, Mr. GOODE, Mr. GOODLATTE, Mr. GRAHAM, Mr. GRAVES, Mr. GUTKNECHT, Mr. HALL of Texas, Mr. HANSEN, Ms. HART, Mr. HASTINGS of Washington, Mr. HAYWORTH, Mr. HEFLEY, Mr. HERGER, Mr. HILLEARY, Mr. HOEKSTRA, Mr. HORN, Mr. ISAKSON, Mr. ISSA, Mr. JENKINS, Mr. JOHN, Mr. JONES of North Carolina, Mr. KELLER, Mr. KENNEDY of Minnesota, Mr. KERNS, Mr. KINGSTON, Mr. KIRK, Mr. KOLBE, Mr. LAHOOD, Mr. LATOURETTE, Mr. LEWIS of Kentucky, Mr. LINDER, Mr. LUCAS of Oklahoma, Mr. MANZULLO, Mr. MCCREERY, Mr. MCKEON, Mr. JEFF MILLER of Florida, Mr. DAN MILLER of Florida, Mrs. MYRICK, Mr. NETHERCUTT, Mrs. NORTHUP, Mr. NORWOOD, Mr. OSBORNE, Mr. OTTER, Mr. PENCE, Mr. PETERSON of Pennsylvania, Mr. PITTS, Mr. PLATTS, Mr. POMBO, Ms. PRYCE of Ohio, Mr. RADANOVICH, Mr. REGULA, Mr. REHBERG, Mr. ROHRABACHER, Mr. ROYCE, Mr. RYUN of Kansas, Mr. SCHAFER, Mr. SCHROCK, Mr. SESSIONS, Mr. SHIMKUS, Mr. SHUSTER, Mr. SIMMONS, Mr. SIMPSON, Mr. STEARNS, Mr. SULLIVAN, Mr. SWEENEY, Mr. TANCREDI, Mr. TERRY, Mr. THUNE, Mr. TIBERI, Mr. TOOMEY, Mr. WALDEN of Oregon, Mr. WAMP, Mr. WELLER, Mr. WICKER, and Mr. WILSON of South Carolina):

H.J. Res. 86. A joint resolution proposing a balanced budget amendment to the Constitution of the United States; to the Committee on the Judiciary.

By Mr. BARTON of Texas (for himself, Mr. BOUCHER, Mr. UPTON, Mr. TOWNS, Mr. TAUZIN, Mr. BURR of North Carolina, Mr. WYNN, Mr. WHITFIELD, Mr. RUSH, Mr. NORWOOD, Mr. SHIMKUS, and Mr. PICKERING):

H.J. Res. 87. A joint resolution approving the site at Yucca Mountain, Nevada, for the development of a repository for the disposal of high-level radioactive waste and spent nuclear fuel, pursuant to the Nuclear Waste Policy Act of 1982; to the Committee on Energy and Commerce.

By Mr. NEY:

H. Con. Res. 374. Concurrent resolution commending the District of Columbia National Guard, the National Guard Bureau, and the entire Department of Defense for the assistance provided to the United States Capitol Police and the entire Congressional community in response to the terrorist and anthrax attacks of September and October 2001; to the Committee on House Administration.

By Mr. GUTKNECHT (for himself, Mr. EHRLICH, Mr. ROHRABACHER, Mr. NEY, Mr. SMITH of New Jersey, and Mr. GILMAN):

H. Con. Res. 375. Concurrent resolution expressing the sense of the Congress in support of the people of Iran and their legitimate quest for freedom, economic opportunity,

and friendship with the people of the United States, and for other purposes; to the Committee on International Relations.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 40: Mr. MEEKS of New York.
H.R. 103: Mr. CUNNINGHAM.
H.R. 128: Mr. BISHOP and Mr. RANGEL.
H.R. 303: Mr. BOOZMAN, Mr. FLAKE, and Mr. LEVIN.
H.R. 320: Mr. PHELPS.
H.R. 600: Mr. CLAY and Mr. ISRAEL.
H.R. 638: Mr. LARSON of Connecticut.
H.R. 658: Mr. ROGERS of Kentucky.
H.R. 690: Mr. COYNE.
H.R. 951: Mr. TANNER, Mr. BAIRD, and Mrs. CUBIN.
H.R. 953: Ms. RIVERS.
H.R. 984: Mr. NETHERCUTT.
H.R. 990: Ms. RIVERS and Mr. HOLT.
H.R. 1073: Mr. TIBERI.
H.R. 1092: Mr. GRAVES.
H.R. 1108: Ms. CARSON of Indiana.
H.R. 1171: Mr. TOWNS.
H.R. 1172: Mrs. LOWEY.
H.R. 1176: Mr. ANDREWS and Mrs. LOWEY.
H.R. 1202: Mr. LEACH.
H.R. 1212: Mr. PRICE of North Carolina.
H.R. 1256: Mr. JACKSON of Illinois and Mr. ISRAEL.
H.R. 1324: Mr. OWENS.
H.R. 1331: Mr. NEY and Mr. KINGSTON.
H.R. 1342: Mr. CHAMBLISS.
H.R. 1375: Mr. BASS.
H.R. 1434: Mr. QUINN and Mr. KIRK.
H.R. 1460: Mr. SOUDER.
H.R. 1462: Mr. OSBORNE.
H.R. 1522: Mr. LEACH.
H.R. 1581: Mr. HILLEARY.
H.R. 1609: Mr. CANTOR, Mr. SULLIVAN, Mr. ORTIZ, and Mr. PASTOR.
H.R. 1656: Mr. CRANE.
H.R. 1680: Mr. KILDEE and Mr. BARRETT.
H.R. 1711: Mr. BOYD.
H.R. 1723: Mr. TRAFICANT, Mr. BAKER, Mr. STRICKLAND, Mr. HOLDEN, Mr. PASCRELL, Mr. HOYER, Mr. LANTOS, and Mr. NORWOOD.
H.R. 1774: Mr. LAMPSON and Mr. ADERHOLT.
H.R. 1784: Ms. WATSON, Mr. DEFAZIO, and Mr. BOUCHER.
H.R. 1796: Ms. COSTELLO and Mrs. MORELLA.
H.R. 1808: Mr. HASTINGS of Florida.
H.R. 1822: Mr. ALLEN.
H.R. 1897: Mr. HOFFEL.
H.R. 1903: Ms. KILPATRICK, Mr. SMITH of New Jersey, Mrs. WATSON, and Mr. OWENS.
H.R. 1904: Mrs. LOWEY, Mr. ENGEL, and Mr. REYES.
H.R. 1962: Mrs. JO ANN DAVIS of Virginia.
H.R. 1979: Mr. NORWOOD, Mr. PENCE, Mrs. MEEK of Florida, Ms. MCKINNEY, Mr. JOHNSON of Illinois, Mr. RYAN of Wisconsin, Mr. BARTON of Texas, Mr. BLUMENAUER, Mr. BALLENGER, and Mrs. WILSON of New Mexico.
H.R. 1987: Mr. FROST, Mrs. BIGGERT, and Mr. JENKINS.
H.R. 2009: Mr. SABO, Mr. GUTIERREZ, Ms. WOOLSEY, Mr. HORN, Mr. KIND, Mr. SNYDER, Mr. LOBIONDO, Mr. ROEMER, Mr. TERRY, and Mr. HILL.
H.R. 2037: Mr. GOSS, Mrs. NORTHUP, and Ms. GRANGER.
H.R. 2063: Mr. LYNCH.
H.R. 2118: Mrs. MORELLA, Mr. HOFFEL, and Ms. MCCOLLUM.
H.R. 2125: Mr. LIPINSKI, Mr. EDWARDS, Mr. BACHUS, Ms. MCCARTHY of Missouri, Mr. PHELPS, and Ms. DUNN.
H.R. 2138: Ms. SOLIS and Mr. LYNCH.
H.R. 2148: Mr. MCGOVERN and Mr. STARK.
H.R. 2160: Mr. UDALL of New Mexico.
H.R. 2173: Mr. NADLER, Mr. RANGEL, and Mr. DAVIS of Illinois.

- H.R. 2211: Mr. RAHALL.
H.R. 2219: Mr. BACA, Mr. BARCIA, Mr. TOWNS, Mr. McHUGH, Mr. McINNIS, and Mr. CLAY.
H.R. 2220: Mr. FALEOMAVAEGA, Mr. KING, and Mr. LYNCH.
H.R. 2280: Mr. McCRERY.
H.R. 2294: Ms. CARSON of Indiana.
H.R. 2316: Mr. THUNE and Mr. FERGUSON.
H.R. 2466: Mr. STUMP, Mr. JENKINS, and Mr. BALLENGER.
H.R. 2527: Ms. PRYCE of Ohio, Mr. CHABOT, Mrs. CAPITO, Mr. BAKER, Mr. WELLER, Ms. BERKLEY, Mr. LYNCH, Mr. SIMMONS, Mr. GORDON, Mr. ROYCE, Mrs. DAVIS of California, Mr. WU, Mr. MALONEY of Connecticut, Mr. DICKS, Ms. HOOLEY of Oregon, Mr. DEFazio, and Mrs. MALONEY of New York.
H.R. 2576: Mr. FOLEY.
H.R. 2592: Mr. SHERMAN.
H.R. 2605: Mr. GEORGE MILLER of California.
H.R. 2608: Mr. FRANK.
H.R. 2618: Mr. HERGER.
H.R. 2663: Ms. NORTON, Mr. GEORGE MILLER of California, and Mr. CONYERS.
H.R. 2695: Mr. UDALL of Colorado, Mr. SCHIFF, and Mr. HONDA.
H.R. 2714: Mr. LATOURETTE, Mr. HOEKSTRA, Mr. CRANE, Ms. HART, Mr. FOLEY, Mr. BROWN of South Carolina, Mr. FLETCHER, Mr. TAYLOR of North Carolina, Mr. DUNCAN, Mr. SMITH of Michigan, Mr. PAUL, Mr. DOOLITTLE, Mrs. MYRICK, Mr. HANSEN, Mr. PITTS, Mr. BALLENGER, Mr. BAKER, Mr. PETRI, Mr. KINGSTON, Mr. RYUN of Kansas, Mr. JEFF MILLER of Florida, Mr. NORWOOD, and Mr. WILSON of South Carolina.
H.R. 2735: Mrs. WILSON of New Mexico, Mrs. MYRICK, Mr. PENCE, and Mr. ISAKSON.
H.R. 2777: Mr. BLUMENAUER and Mr. SMITH of Washington.
H.R. 2799: Mrs. LOWEY.
H.R. 2817: Mr. KIRK, Mr. BARTLETT of Maryland, Mr. PENCE, and Mr. HANSEN.
H.R. 2820: Mr. CARSON of Oklahoma, Mr. SHIMKUS, Mr. LEWIS of Georgia, and Mr. DINGELL.
H.R. 2829: Mr. FLAKE, Mr. BRADY of Texas, Mr. JEFF MILLER of Florida, Mr. LINDER, Mr. BARTLETT of Maryland, Ms. DUNN, Mr. DEAL of Georgia, Mr. PETERSON of Pennsylvania, Mr. AKIN, Mr. PAUL, Mr. GARY G. MILLER of California, Mr. HUNTER, Mr. ISSA, Mr. ROYCE, Mr. THUNE, Mr. BARTON of Texas, Mr. CALVERT, and Mr. BARR of Georgia.
H.R. 2867: Ms. MILLENDER-MCDONALD.
H.R. 2874: Mr. STARK and Ms. KILPATRICK.
H.R. 2941: Mr. TOOMEY.
H.R. 3066: Mr. CUMMINGS and Mr. HOLDEN.
H.R. 3113: Mr. BOUCHER.
H.R. 3132: Mr. LIPINSKI, Mr. DELAHUNT, Mr. CAPUANO, and Mr. TIERNEY.
H.R. 3183: Mr. CARSON of Oklahoma, Ms. CARSON of Indiana, and Mr. EVANS.
H.R. 3186: Mr. FOLEY.
H.R. 3231: Mr. SAM JOHNSON of Texas, Mr. GREEN of Texas, and Mr. WELLER.
H.R. 3238: Mr. HOEKSTRA, Mr. HOLT and Ms. MCKINNEY.
H.R. 3244: Mr. TAUZIN.
H.R. 3258: Mr. ISAKSON.
H.R. 3257: Mr. NEAL of Massachusetts.
H.R. 3321: Mr. BROWN of South Carolina Mr. McHUGH, Mr. GRAVES, Mr. MEEKS of New York, Mr. ROGERS of Kentucky, and Mr. PRICE of North Carolina.
H.R. 3335: Mrs. THURMAN, Mr. GREEN of Texas, and Mr. FROST.
H.R. 3360: Mr. MASCARA and Mr. BOUCHER.
H.R. 3374: Mr. KILDER.
H.R. 3382: Mr. PASCRELL.
H.R. 3389: Mr. ISAKSON and Mr. OXLEY.
H.R. 3414: Mr. SCHIFF and Mrs. DAVIS of California.
H.R. 3430: Mr. GRAHAM and Mr. LATHAM.
H.R. 3437: Mr. KING and Mr. WEXLER.
H.R. 3439: Mr. THUNE and Ms. GRANGER.
H.R. 3450: Mr. SERRANO, Mr. MEEKS of New York, Mr. HEFLEY, and Mr. HOLT.
H.R. 3464: Ms. DEGETTE.
H.R. 3465: Mr. McINTYRE, Mr. WATT of North Carolina, and Mr. BONIOR.
H.R. 3476: Mrs. BONO.
H.R. 3479: Mr. MCGOVERN and Mr. EHRLICH.
H.R. 3512: Mr. WATKINS and Mr. THUNE.
H.R. 3524: Ms. BALDWIN.
H.R. 3469: Mr. OWENS.
H.R. 3574: Mr. McDERMOTT.
H.R. 3584: Mrs. CHRISTENSEN.
H.R. 3592: Mr. ETHERIDGE, Mr. ENGLISH, Ms. ROS-LEHTINEN, Mr. SNYDER, and Mr. SHOWS.
H.R. 3597: Mr. OWENS.
H.R. 3617: Ms. LEE.
H.R. 3618: Mr. CLYBURN.
H.R. 3625: Mr. FARR of California, Ms. DELAURO, Mr. BENTSEN, and Mr. MCGOVERN.
H.R. 3659: Mr. COOKSEY, Mr. BECERRA, Mrs. JONES of Ohio, Mr. MARKEY, Mr. WAMP, Mr. SCHIFF, Mr. LEACH, Mr. GONZALEZ, Mr. BARRETT, Mr. McINTYRE, Mr. TURNER, Mr. KIND, Mr. FILNER, Ms. WOOLSEY, Mrs. KELLY, Mr. MCGOVERN, Mr. HINOJOSA, Mr. SIMMONS, Mr. GREEN of Wisconsin, Mr. ORTIZ, Mr. CUNNINGHAM, Mr. GANSKE, Ms. BALDWIN, and Mr. PASTOR.
H.R. 3686: Mr. BARTLETT of Maryland and Mr. DAVIS of Illinois.
H.R. 3694: Mr. GUTIERREZ and Mr. SULLIVAN.
H.R. 3698: Mr. PENCE, Mr. WELDON of Florida, and Mr. TANCREDO.
H.R. 3713: Ms. MCCARTHY of Missouri.
H.R. 3717: Mr. BARTLETT of Maryland.
H.R. 3733: Mr. CARSON of Oklahoma.
H.R. 3772: Ms. BROWN of Florida, Mr. ENGLISH, Mr. FROST, Mr. CUNNINGHAM, Ms. CARSON of Indiana, Mr. LYNCH, Mr. FRANK, and Mr. MCGOVERN.
H.R. 3782: Mr. BARR of Georgia, Mr. TERRY, Mrs. WILSON of New Mexico, Mr. GORDON, Mr. PAYNE, and Mr. WALDEN of Oregon.
H.R. 3799: Mr. LATOURETTE.
H.R. 3825: Mr. SULLIVAN, Mrs. ROUKEMA, and Mr. BARR of Georgia.
H.R. 3831: Mr. LATOURETTE and Mr. SIMMONS.
H.R. 3833: Mr. DINGELL, Mr. VITTER, and Mr. FOLEY.
H.R. 3834: Ms. BALDWIN, Mr. PRICE of North Carolina, Mr. KENNEDY of Rhode Island, and Ms. HART.
H.R. 3836: Mr. EDWARDS, Ms. WOOLSEY, and Mr. STARK.
H.R. 3842: Mr. JONES of North Carolina, Mr. FERGUSON, Mr. GRUCCI, Mr. WEXLER, and Mr. FOLEY.
H.R. 3884: Mr. WYNN, Mr. GEPHARDT, and Ms. DELAURO.
H.R. 3890: Mr. CROWLEY Mr. OWENS, Mr. FROST, Mr. DINGELL, and Ms. WATSON.
H.R. 3894: Mr. OWENS and Ms. MCKINNEY.
H.R. 3895: Mr. CALVERT.
H.R. 3897: Mr. TOM DAVIS of Virginia, Mr. BONIOR, Mr. SMITH of New Jersey, Ms. SOLIS, and Mr. FRANK.
H.R. 3899: Ms. WOOLSEY.
H.R. 3912: Ms. VELAZQUEZ.
H.R. 3915: Mr. PALLONE, Mr. CLAY, Mr. KUCINICH, Mr. STARK, Mr. FILNER, and Mr. MORAN of Virginia.
H.R. 3916: Mr. DAVIS of Florida, Mr. GREEN of Texas, Mr. ALLEN, Mr. GEORGE MILLER of California, Mr. FILNER, Mr. HOEFFEL, Mrs. THURMAN, Ms. RIVERS, Mr. SERRANO, and Ms. WOOLSEY.
H.R. 3933: Mr. BLAGOJEVICH, Ms. NORTON, and Mr. OWENS.
H.R. 3940: Mr. SPRATT and Mr. CLYBURN.
H.R. 3961: Ms. SCHAKOWSKY and Mr. HINCHAY.
H.R. 3974: Mr. FROST.
H.R. 3981: Mr. THUNE.
H.R. 3989: Ms. CARSON of Indiana, Mr. MASCARA, Mrs. CAPPS, Ms. SCHAKOWSKY, Mrs. ROUKEMA, Mr. EVANS, Mr. MALONEY of Connecticut, Ms. WATSON, Ms. WOOLSEY, Mr. OWENS, and Mr. STARK.
H.R. 4003: Ms. MCCOLLUM.
H.R. 4008: Mr. OWENS, Mr. DINGELL, Ms. KAPTUR, Mr. STARK, Mr. FROST, and Mr. FRANK.
H.R. 4009: Mr. BARTLETT of Maryland.
H.R. 4018: Mr. CARSON of Oklahoma and Ms. WOOLSEY.
H.R. 4019: Mr. SOUDER, Mr. SENSENBRENNER, and Ms. ROS-LEHTINEN.
H.R. 4030: Mr. GUTKNECHT, Mr. CRENSHAW, Mr. STUMP, and Mr. WALDEN of Oregon.
H.R. 4043: Mr. BARR of Georgia, Mr. BEREUTER, and Mr. PITTS.
H.R. 4061: Ms. CARSON of Indiana, Mr. OWENS, Mr. BONIOR, Mr. POMEROY, Mr. PASCRELL, Mr. FORD, Mr. CUMMINGS, Mr. MATSUI, and Mr. GONZALEZ.
H.R. 4071: Mr. FOLEY.
H.R. 4098: Mr. MCGOVERN and Mrs. MINK of Hawaii.
H.R. 4104: Ms. ESHOO and Mr. LARSON of Connecticut.
H.R. 4108: Mr. TANCREDO.
H.R. 4112: Mr. FOLEY, Mr. WATKINS, and Mr. SCHAFER.
H.R. 4152: Mr. SWEENEY, Mr. BOYD, Mr. CRENSHAW, Mr. PENCE, Mr. SCHROCK, Mr. CULBERSON, and Mr. PLATTS.
H.R. 4156: Mr. GORDON, Mr. GOODE, Mr. TAYLOR of North Carolina, Mr. HOEFFEL, Mr. MCGOVERN, Mr. ISAKSON, and Mr. COBLE.
H. Con. Res. 297: Mr. ROYCE.
H. Con. Res. 315: Mr. BOOZMAN and Mr. GREEN of Texas.
H. Con. Res. 328: Mr. CLAY.
H. Con. Res. 346: Mr. BLUMENAUER.
H. Con. Res. 350: Mr. WHITFIELD and Mr. STUPAK.
H. Con. Res. 351: Ms. MILLENDER-MCDONALD, Mr. KIND, Mrs. MINK of Hawaii, Mr. BLAGOJEVICH, Mr. DOYLE, Mr. SHAW, Mrs. MEEK of Florida, Mr. FARR of California, Mr. MCGOVERN, Ms. WOOLSEY, and Mr. GEORGE MILLER of California.
H. Con. Res. 371: Mr. FOSSELLA, Ms. WOOLSEY, Mr. SHIMKUS, Mr. COLLINS, Mr. FROST, Mr. SERRANO, Mr. HORN, Ms. MCKINNEY, Mr. LYNCH, Ms. MCCOLLUM, and Mr. KNOLLENBERG.
H. Res. 17: Ms. MCCOLLUM.
H. Res. 302: Mr. WALSH and Mr. BACHUS.
H. Res. 361: Mr. SOUDER, Mr. KLECZKA, Ms. RIVERS, and Mr. KIRK.

DELETIONS OF SPONSORS FROM
PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 3479: Mr. KUCINICH.

H.R. 3598: Mr. WELDON of Pennsylvania.

DISCHARGE PETITIONS—
ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petitions:

Petition 6, by Mr. STEVE ISRAEL on House Resolution 352: Adam Smith, Chris-

topher John, Jim Matheson, Ronnie Shows, and Rod R. Blagojevich.

Petition 4, by Mr. CUNNINGHAM on House Resolution 271: Bart Gordon.



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 107th CONGRESS, SECOND SESSION

Vol. 148

WASHINGTON, THURSDAY, APRIL 11, 2002

No. 39

Senate

The Senate met at 10:01 a.m. and was called to order by the Honorable BILL NELSON, a Senator from the State of Florida.

The PRESIDING OFFICER. Today's prayer will be offered by our guest Chaplain, Rabbi Hazdan.

PRAYER

The guest Chaplain offered the following prayer:

Let us pray.

Sovereign of the Universe and Father of Mankind, in these soul stirring times we need Thy guidance and Thy blessing. Serious is the challenge that free countries and America face. We seek peace, but we must safeguard life and liberty from possible onslaughts of godless ruthless, and unprincipled aggressors.

Earnestly we seek Thee and we invoke Thy blessing upon all assembled here in this shrine of freedom. Thy faithful servants, the Senators who have been chosen to speak for our Nation, stand upon a pedestal of power, of privilege, and responsibility. Do Thou, O gracious guardian, ever direct their deliberations that their vision and wisdom may make America a better country in which to live, and thus strengthen the national foundations of our beloved Republic.

May we, the citizens of the United States, ever be reverent toward Thee, our loving G-d, loyal to our obligations as Americans, honorable in our dealings with our fellow men, compassionate to the unfortunate, be as brothers to the oppressed, the persecuted, and the homeless everywhere.

Gracious Sovereign who is the ruler of the universe, do Thou bless and guide and guard the President of the United States, these Senators and all associated with them who labor zealously for the welfare of our Nation and for the advancement of the cause of democracy throughout the world.

May the biblical ideals of freedom and fraternity, of justice and equality

enshrined in the American Constitution become the heritage of all people of the earth.

We ask this in Thy name, our Father in heaven. Amen.

PLEDGE OF ALLEGIANCE

The Honorable BILL NELSON led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD.)

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 11, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BILL NELSON, a Senator from the State of Florida, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. NELSON of Florida thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

SCHEDULE

Mr. REID. Mr. President, as the Chair announced, the Senate is now resuming the consideration of the energy reform bill. We expect the Senator from California to be here momentarily to offer an amendment. I believe the subject matter of that will deal with ethanol. This will be offered, I hope, within the next few minutes.

The consideration of this legislation will be interrupted as a result of the unanimous consent request granted last night. The Senate is slated to resume the election reform measure at 11:30 a.m. today, with 30 minutes of debate remaining prior to the Senate conducting up to three rollcall votes at 12 noon today. That 30 minutes will be equally divided between Senator DODD and Senator MCCONNELL. Once the election reform measure has been disposed of, the Senate will resume consideration of the energy bill with other votes this afternoon and this evening.

I say to all Senators, we need to move this legislation along. I sound like a broken record. We have been told on several occasions that the ANWR amendment was going to come forward. It will come forward today in some fashion or form. I think it is fair to say if this is not offered by Senator MURKOWSKI or someone of his choosing, either I or someone else will offer it. ANWR must come before the Senate and we must debate this issue; I hope everyone understands. Whoever wants to offer it wants it just right, and I think the just right time has arrived. We need to have this amendment before the Senate. As was indicated yesterday, it may become necessary to offer the same language in the House bill so we can get this debate underway and this legislation completed.

NATIONAL LABORATORIES PARTNERSHIP IMPROVEMENT ACT OF 2001

The ACTING PRESIDENT pro tempore. Under the previous order, the

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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S2507

Senate will now resume consideration of S. 517, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 and 2006, and for other purposes.

Pending:

Daschle/Bingaman further modified amendment No. 2917, in the nature of a substitute.

Kerry/McCain amendment No. 2999 (to amendment No. 2917), to provide for increased average fuel economy standards for passenger automobiles and light trucks.

Dayton/Grassley amendment No. 3008 (to amendment No. 2917), to require that Federal agencies use ethanol-blended gasoline and biodiesel-blended diesel fuel in areas in which ethanol-blended gasoline and biodiesel-blended diesel fuel are available.

Lott amendment No. 3028 (to amendment No. 2917), to provide for the fair treatment of Presidential judicial nominees.

Landrieu/Kyl amendment No. 3050 (to amendment No. 2917), to increase the transfer capability of electric energy transmission systems through participant-funded investment.

Graham amendment No. 3070 (to amendment No. 2917), to clarify the provisions relating to the Renewable Portfolio Standard.

Schumer/Clinton amendment No. 3093 (to amendment No. 2917), to prohibit oil and gas drilling activity in Finger Lakes National Forest, New York.

Durbin amendment No. 3094 (to amendment No. 2917), to establish a Consumer Energy Commission to assess and provide recommendations regarding energy price spikes from the perspective of consumers.

Dayton amendment No. 3097 (to amendment No. 2917), to require additional findings for FERC approval of an electric utility merger.

AMENDMENT NO. 3114 TO AMENDMENT NO. 2917

Mrs. FEINSTEIN. Mr. President, I rise today to open the debate on the so-called renewable fuels or ethanol mandate in the Senate energy bill. I strongly believe the fuel provisions in this legislation are egregious public policy, that they amount to a wish list for the ethanol industry, and the Senate has to consider the impact of these provisions on the rest of the Nation.

Frankly, I believe it is terrible public policy. Frankly, I believe this amounts to a wealth transfer of literally billions of dollars from every State in the Nation to a handful of ethanol producers. Frankly, I believe this mandate amounts to a new gas tax in the Nation.

Here are my objections to the renewable fuels requirement in the Senate energy bill: First, despite limited clean air benefits, the mandate will almost triple the amount of ethanol in our Nation's fuel.

Second, even if States do not use this ethanol, they are required—forced—to pay for it anyway.

Third, forcing more ethanol into gasoline will only drive prices up at the pump.

Fourth, since over 98 percent of the production capacity of ethanol is based in the Midwest, it is extremely difficult to transport large amounts of

ethanol to States where it is not produced.

Fifth, I am very concerned the limited number of ethanol suppliers in the United States will be able to exercise their market power and drive up price. This is exactly what happened last year in the West when electricity and natural gas prices soared due to supply manipulation by out-of-State energy companies.

Sixth, there may not be enough ethanol produced in the United States to meet future demand.

Seventh, almost tripling the amount of ethanol we produce raises serious health and environmental questions. Tripling it is a big step into the unknown, environmentally and healthwise. I hope to show this in my remarks.

Finally, because ethanol is subsidized, mandating more of it will divert money from the highway trust fund. What I mean by this is there is a 5.4-cent-per-gallon tax credit for ethanol that will continue to divert more and more resources to ethanol instead of the highway trust fund where every State gets its essential resources to reduce traffic congestion and improve the safety of roads and bridges.

Let me explain each objection, one at a time. Let me begin by talking about my concerns with mandating more ethanol than is needed. This bill forces California, my State, to use 2.68 billion gallons of ethanol over the 9 years it does not need to meet clean air standards.

Look at this chart. The red is the amount of ethanol California will be forced to use from 2004 to 2012 under the mandate in the Senate energy bill. The blue is the amount of ethanol we would use without the mandate, largely in the winter months in the southern California market.

Here you see, to meet clean air standards, by 2004, we will be forced to use 126 million gallons. This bill forces us to use 276 million gallons in 2004 and it forces us to use 312 million gallons in 2005 and it ratchets up every year until we are forced to use, by the end of this mandate, 600 million gallons of ethanol in 2012 when we only need to use 143 million gallons to meet clean air standards.

What kind of public policy would do that? What kind of public policy would require a State to use a dramatic amount more of ethanol, an untested health and environmental additive to gasoline, that it doesn't really need? Is that good public policy? I do not think it is.

What makes it even more egregious—and the reason I use the word “egregious” is if we do not use it, if we trade it, we are forced to pay for it anyway. That is the massive transfer of wealth that takes place under this amount. No one knows how much more consumers will be forced to pay, but a recent study by the Department of Energy indicates that prices will increase 4 to 10 cents a gallon across the United States if this ethanol mandate becomes law.

A study sponsored by the California Energy Commission indicates that in a State such as California, where ethanol is not produced, gas prices could double and even reach \$4 per gallon. This chart shows the real hazard this mandate is on both coasts. In California, where it is estimated the price increase is .096 cents per gallon. Then in other states: Connecticut, it will increase the price of gasoline 9 cents a gallon; Delaware, 9 cents a gallon; New Hampshire, 8 cents a gallon; New Jersey, 9 cents a gallon; New York, 7 cents a gallon; Pennsylvania, 5 cents a gallon; Rhode Island, 9 cents a gallon; Virginia, 7 cents a gallon; Massachusetts, 9 cents a gallon; Missouri, 5 cents a gallon—and on and on and on. This is bad public policy.

California does not have the infrastructure in place to be able to transport large amounts of ethanol into the State, therefore any shortfall of supply—either because of manipulation or raw market forces—will be exacerbated because the State will be reliant on ethanol from another area of the United States.

According to a recent report issued by the GAO, over 98 percent of the U.S. ethanol production capacity is located in the Midwest. Here it is: In the West, 10 million gallons—that is all we produce; in the Rocky Mountain region, 12 million gallons; the South, here, 15 million gallons; and the east coast, 4 million gallons.

In the Midwest, which is the big beneficiary of this ethanol mandate—nobody should doubt that—they produce 2.27 billion gallons of ethanol. So the ethanol is all produced in the Midwest.

There is only one ethanol plant in California today, so it is going to be impossible for California to respond to any ethanol shortage. As the GAO reports:

Ethanol imports from other regions are vital. However, any potential price spike could be exacerbated if it takes too long for supplies from out-of-State (primarily the Midwest where virtually all the production capacity is located) to make their way to California.

Since there is no quick or effective way to send ethanol to California as of yet, more time is needed to develop the proper ethanol delivery infrastructure. One of the amendments I will be sending to the desk essentially delays the beginning of this by an additional year to give us the time to get the infrastructure.

This is why it is important. Because moisture causes ethanol to separate from gasoline, this fuel additive cannot be shipped through traditional gasoline pipelines. So it needs a whole new infrastructure. Ethanol needs to be transported separately by truck, by boat, and by rail, and blended into gasoline after arrival. Unfortunately, this makes the 1- to 3-week delivery time from the Midwest to either coast—either to California and the west coast, or to the east coast—dependent upon good weather conditions as well as

available ship, truck, and train equipped to handle large amounts of ethanol. Again, this is a tripling of the ethanol use in America over the next 9 years.

I believe everyone outside of the Midwest will have to grapple with how to bring ethanol to their States. According to the California Energy Commission:

The adequacy of logistics to deliver large volumes of ethanol to California on a consistent basis—

This is the key. Gasoline is sold every day. You can't just import it once and then forget it for 3 weeks. Every single day on a consistent basis is uncertain.

A recent report sponsored by the same energy commission predicts that there will be future logistical problems since the gasoline supply is currently constrained with demand exceeding the existing infrastructure capacity.

This means that California is already at its refining capacity. It is actually at about 98 percent of refining capacity. If there is insufficient transportation infrastructure to ship large amounts, this just makes the problem worse.

I don't see any way for California to avoid experiencing a new energy crisis. This one would be a direct result of an unnecessary Federal requirement that increases our mandatory use of ethanol far beyond what we need to use to meet the clean air standard.

The fact that there are limited numbers of suppliers in the ethanol market reminds me of the situation with electricity a year ago when prices soared in the West because of a few out-of-State generating firms dominating the market. What do I mean by that?

According to the GAO, the largest ethanol producer is Archer Daniels Midland. That is this company. They have a 41-percent share of the ethanol market. The entire ethanol market really consists of these companies: Minnesota Corn Producers, 6 percent; Williams Bio-Energy, 6 percent; Cargill, 5 percent; High Plains Corporation, 4 percent; New Energy Corporation, 4 percent; Midwest Grain, 3 percent; and, Chief Ethanol, 3 percent.

These eight companies corner the market on ethanol. There is a market concentration of ethanol. That is a danger signal for all of us—a concentrated market, and a huge mandate that triples.

ADM has a 41-percent market share. The top eight firms have a 71-percent market share. The GAO finds their market share to be "highly concentrated."

How can those in the West who suffered last year believe these firms will not abuse their market power to drive prices up? If we learned anything from the energy crisis last year, it is that when there is not an ample supply or adequate competition in the marketplace, prices will soar, and consumers will pay.

Mr. President, I ask unanimous consent to have printed in the RECORD an

op-ed by Peter Schrag that appeared in the Sacramento Bee on January 30.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Sacramento Bee, Jan. 30, 2002]

CAN CALIFORNIA AVOID THE NEXT ENERGY MESS?

(By Peter Schrag)

The two sets of terms aren't corollaries, but close enough. The Bush administration has ruled that without an "oxygenate" additive such as ethanol or MTBE, now being phased out because of water pollution problems, California gasoline won't burn cleanly enough to meet air-quality standards. It thus won't give the state a waiver from the federal requirement. But as a leading environmentalist says, the decision is based a lot more on political science than science. And it could cost California motorists close to a half-billion a year.

And that's where ADM comes in. The monster agribusiness company, which calls itself supermarket to the world, markets about half the ethanol produced in this country. ADM's contributions to politicians of both parties—some \$4.5 million in the 1990s, plus some \$930,000 in soft money in the 2000 election cycle alone, including \$100,000 for the Bush inauguration last year—put it ahead of Enron on many lists of political-influence peddlers.

The investment, bolstered by intensive lobbying from Midwest farmers, is paying off handsomely. The president says that ethanol, a "renewable" fuel that comes mostly from corn, not only reduces emissions but also fosters energy independence.

The claim is dubious. Many studies indicate that ethanol, while reducing carbon monoxide emissions, increases the emission of smog-producing and other toxic compounds. A 1999 report commissioned by the U.S. Environmental Protection Agency itself called for an end to the requirement. That, the panel said, "will result in greater flexibility to maintain and enhance emission reductions, particularly as California pursues new formulation requirements for gasoline."

The Sierra Club, the Natural Resources Defense Council, the Clean Air Trust and other environmental groups echo the findings. But Washington hasn't paid much attention. Despite evidence that ethanol has contributed nothing to energy independence, every gallon of gas with ethanol gets a 5.4-cent federal subsidy (without costs \$600 million a year in federal highway funds). And as MTBE is being phased out—in California, Gov. Gray Davis has set Jan. 1, 2003, as the deadline—ADM and other ethanol producers stand to gain handsomely.

Davis has lobbied vigorously for a waiver of the ethanol requirement, arguing, with considerable evidence, that California's auto and fuel standards will achieve the same or even better results without ethanol. He's also suing the federal EPA.

According to a North American Free Trade Agreement claim by Methanex Corp., a Canadian producer of MTBE, Davis himself got \$200,000 from ADM during the 1998 gubernatorial campaign and allegedly was flown to ADM headquarters in Decatur, Ill., to meet with company officials. MTBE didn't have to be phased out, Methanex says; the problem is not the compound but the flawed underground tanks from which it leaks. Davis' phaseout order, says the claim, suggests still more influence peddling.

But in this case, ADM's investment hasn't paid off. There's been overwhelming pressure in California, as elsewhere, to get MTBE out of gasoline as quickly as possible. Davis is not doing ADM's bidding; he's trying to

straddle a line between cleaner water and higher gas prices. Chances are he'll extend the MTBE phaseout and try to negotiate with Congress for (at least) more flexibility on ethanol.

Unlike Enron, ADM is not likely to implode; there's no sign of accounting shenanigans, no "partners" where red ink can be hidden. But six years ago, ADM was forced to pay \$100 million in what was then the largest price-fixing fine ever imposed. In 1998, three of its senior executives, including Chief Operating Officer Michael Andreas, son of former board chairman Wayne Andreas, were sentenced to prison.

The case, said a federal appeals court, reflects "an inexplicable lack of business ethics and an atmosphere of general lawlessness. . . . Top executives at ADM and its Asian co-conspirators . . . spied on each other, fabricated aliases and front organizations to hide their activities, hired prostitutes to gather information from competitors, lied, cheated, embezzled, extorted and obstructed justice." These are not the kind of guys you want to depend on when you fill your tank.

California's gasoline situation will probably never become the crisis that electricity was last year—and in this case, no one can blame the state or its politicians. But if something doesn't give before the end of the year, the state will not only be paying for ethanol it doesn't need, but also be subject to sudden supply shortages.

California may be able to produce some of its own ethanol, but most will have to come from the Midwest, either by ship (down the Mississippi, which sometimes freezes) or by train. Without a federal waiver, every gallon of ethanol not available at the refinery means a shortage of 14 gallons of gas. If ever there was a price-spike formula, this one is it.

Last week, California's Republican gubernatorial candidates once again rehashed last year's energy crisis. Somebody ought to start asking what they'd do about the next one.

Mrs. FEINSTEIN. Mr. President, in this article, Schrag mentions:

Now that "energy crisis" and Enron have become household words, Californians had better get familiar with ethanol and Archer Daniels Midland.

ADM is already an admitted price-fixing firm. Three of its executives have served prison time for colluding with competitors.

In 1996, ADM pled guilty and paid a \$100 million fine for conspiring to set the price of an animal feed additive. That is the company that has a 41-percent share of ethanol.

The ethanol industry tells us they will be able to produce enough ethanol to meet future demands under this mandate. But what if some of the planned ethanol plants fail to be built? This is a key point. Plants could be delayed, or not coming online at all. We are finding this with the electricity-generation facilities right now in California. Plants that said they were going to come in, because of the economy, or because of their own financial conditions, or one thing or another, have decided no—they are not really going to go ahead with it. What is to preclude that same thing from happening with respect to ethanol? The answer to the question is nothing precludes it.

The GAO reports:

Projected capacity may be lower if some plants cease production, plants under construction don't come online in time, or some new plants' plans do not materialize.

The ethanol industry is asking this Nation to make a blind leap of faith that there will be a sufficient amount of ethanol in the future. In fact, projections of the future domestic ethanol supply are based upon numbers supplied by ethanol producers themselves. We are taking a very big risk here. We should know it.

I am also particularly concerned about the long-term effect of nearly tripling the amount of ethanol in our gasoline supply. What effect will this have on our environment? What are the health risks of ethanol?

The answers are truthfully largely unknown. That is the rub, too. I believe it is bad public policy to mandate an amount of ethanol that is way above what is required to meet clean air standards before scientific and health experts can fully investigate the impact of ethanol on the air we breathe and the water we drink.

There was a 2-percent oxygenate requirement put in some time ago. One of the oxygenates that was chosen was MTBE. Now we find that MTBE has contaminated 10,000 wells in California, the water supply for Santa Monica, the Santa Clara Valley reservoirs, Lake Tahoe, and a number of other places in California. We now find that MTBE may well be a human carcinogen. We learned all of this, the horse is out, and the barn door is shut. Now we are going to do the same thing with respect to ethanol.

Just what are the environmental ramifications of more ethanol in our fuel supply?

Although the scientific opinion is not unanimous, evidence suggests that, one, reformulated gasoline with ethanol produces more smog pollution than reformulated gas without it. We have reformulated gasoline. That is why we don't need to use it. The finding is that there is more smog pollution with ethanol than if States simply went to reformulated gasoline.

Second, ethanol enables the toxic chemicals in gasoline to seep further into ground water and even faster than conventional gasoline.

Ethanol is also made out to be an ideal renewable fuel, giving off fewer emissions. Yet on balance, ethanol can be a cause of more air pollution because it produces smog in the summer months. Smog is a powerful respiratory irritant. It affects a large amount of the population. It has an especially pernicious effect on the elderly, on children, and individuals with existing respiratory problems such as asthma. And asthma is going up in America. It is time we begin to ask why.

A 1999 report from the National Academy of Sciences found:

[T]he use of commonly available oxygenates [like ethanol] in [Reformulated Gasoline] has little impact on improving

ozone air quality and has some disadvantages. Moreover, some data suggests that oxygenates can lead to higher Nitrogen Oxide (NO_x) emissions.

Nitrogen oxides are known to cause smog.

The National Academy report also found that ethanol-blended gasoline will "lead to increased emissions of acetaldehyde"—a toxic pollutant.

Thus, ethanol is both good and bad for air quality. And we triple it. That is the unknown. That is the big step into the unknown we are taking. To me, it would make sense to maximize the advantages of ethanol and minimize the disadvantages. This bill, this mandate does not do that. This is exactly why States should have flexibility to decide what goes into their gasoline in order to meet clean air standards. Ethanol should not be mandated, certainly not at this level.

Why are some forcing smog pollution into our air during the summer?

Evidence also suggests that ethanol accelerates the ability of toxins found in gasoline to seep into our ground water supplies. The EPA Blue Ribbon Panel on Oxygenates found that ethanol "may retard biodegradation and increase movement of benzene and other hydrocarbons around leaking tanks."

Now, benzene is a carcinogen. Just know what we are doing.

Let me quote the EPA Blue Ribbon Panel on Oxygenates. Ethanol "may retard biodegradation and increase movement of benzene and other hydrocarbons around leaking tanks."

According to a report by the State of California entitled, "Health and Environmental Assessment of the Use of Ethanol as a Fuel Oxygenate," there are valid questions about the use of ethanol and its impact on ground and surface water. An analysis in the report found that there will be a 20-percent increase in public drinking water wells contaminated with benzene if a significant amount of ethanol is used—a 20-percent increase in public drinking water wells contaminated with benzene, a known carcinogen.

We are tripling the amount of ethanol, and we are tripling it when it isn't needed to meet clean air standards. What kind of public policy is this? It is egregious public policy. It is wrong public policy. If you think I am passionate about it, you are right.

So what is the rush to force more ethanol on the American motorists if it will only drive up the price of gasoline and produce mixed environmental results?

On top of that, how can the Senate favor protecting the ethanol industry from liability? And this is the clincher in this bill: They are protected from liability. So if you get sick from it, if it pollutes our wells, if benzene increases, you cannot sue. What kind of public policy is this?

I urge my colleagues to look at pages 204 and 205 of the energy legislation where a so-called safe harbor provision

gives the ethanol industry unprecedented protection against consumers and communities that may seek legal redress against the harm ethanol may cause. I am very pleased to say that my colleague, Senator BOXER from California, will have an amendment which will eliminate this safe harbor provision.

More ethanol will force the Government to collect less gasoline tax revenue for the highway trust fund. This is a very big consideration. It is huge.

Let me argue this point. Ethanol is exempted from 5.3 cents of the Federal motor fuels tax. The Congressional Research Service has indicated that the ethanol mandate in this bill will divert \$7 billion over the 9 years away from the highway trust fund, which States use to pay for essential transportation projects. And that is on top of the cut that is in the Bush budget.

So per gallon of gasoline today, 18.4 cents goes into the trust fund. With the tripled amount of ethanol, CRS estimates there will be a \$7 billion loss in the highway trust fund over the next 9 years—a \$7 billion loss. That is enough in itself to vote against this legislation.

California is able to produce special gasoline that is the cleanest burning gasoline in the country today. We meet clean air standards with reformulated gasoline. The State only needs to use ethanol in the winter months to meet clean air requirements. That is why the State has continually asked the Federal Government for a waiver of the 2-percent oxygenate requirement.

Yet time and time again, the ethanol industry has flexed its political muscle in the White House, in the Senate, and in the House to force California to use fuel additives the State does not need. This time is no different. And it is clear to me that all of this is merely serving to prop up an industry that would fall apart without overwhelming Government subsidy and action.

I am very concerned about the repercussions this mandate may have on the price and supply of gasoline. I cannot vote for this bill with this mandate in it. It is bad public policy. It is egregious public policy.

The California Energy Commission again points out:

The combination of limited local capacity, restrained imports, limited storage, and a strong demand, has caused the California gasoline market to become increasingly unstable, with wild price swings.

The bottom line is that my State's gasoline market is extraordinarily volatile and vulnerable. And this is the fifth largest economic engine in the world. People have to get to work, and gasoline fuels the economy as well as automobiles. And we are going to do this to it?

In 1999, fires at Tosco and Chevron refineries during the summer forced the price of gasoline to double in California.

This bill will strain California's gasoline supply even further with a Federal

ethanol mandate that risks plunging California and other States into the next energy crisis. Every indicator I have seen points to this ethanol requirement as having unanticipated side effects, such as supply problems and resulting in higher gasoline prices for the consumer.

So by passing this legislation, the Senate will be making California's and the Nation's gasoline more expensive by mandating a fuel additive with a negative value as an energy source and a mixed value for the environment.

On balance, it makes no public policy sense. I want to make clear, once again, my strong opposition to this greedy and misguided renewable fuels requirement. The mandate is a dangerous step that could force gasoline prices to soar, cause shortages of fuel, create more smog, and usher in the next energy crisis.

Plain and simple, it is bad policy to charge all consumers more to benefit a collection of very few ethanol producers. I hope this commentary will begin an honest debate in the Senate about the ethanol provisions of the Senate energy bill and what they will really do.

I know Senator SCHUMER is going to follow up on this. However, I take this opportunity to indicate that there will be a number of amendments from those of us on the west coast and those of us on the east coast. We intend to press this debate. We do not intend to let this bill go forward if we can prevent it.

I begin with one of my first amendments. Another diabolical thing in this bill is essentially to state that if a waiver is provided, if a State asks to waive—this is on page 195 of the bill—the Administrator, in consultation with the Secretary of Energy, may waive the renewable fuels requirement in whole or in part on petition by one or more States by reducing the national quantity of renewable fuel required under this section based on a determination by EPA, after public notice and opportunity for comment, that implementation of the requirement would severely harm the economy or the environment of a State or a region or the United States; and that based on a determination by the EPA Administrator, after public notice and opportunity, there is an inadequate domestic supply or distribution capacity to meet the requirement.

In simple English, this means that if there is an emergency, the ethanol mandate can be temporarily suspended.

This is the rub: The bill, as currently drafted, gives EPA 240 days in an emergency to make a decision. That is a good part of a year to decide whether or not to grant a waiver. This is unconscionable. In other words, if you can't obtain enough ethanol and you have an emergency and you petition to waive it, it takes 240 days. What do you do for 240 days?

This, in my view, is ridiculous. Can you imagine if in a few years there is

an ethanol shortage, there are problems getting enough ethanol to New York or to California and our two Governors ask for a waiver and we have to wait 240 days to get it? Our economy would take a devastating blow if such a situation were to occur.

To make this waiver more reasonable, I am offering this amendment to require the EPA to respond in a reasonable time to an emergency request by a State for a waiver. This amendment will give the EPA 30 days to rule on a waiver so consumers will not unduly suffer. By reducing the time period, the Administrator will have not 240 days but 30 days to decide whether or not an emergency waiver should be approved. We can ensure that any price spikes or supply shortage will be as temporary as possible.

I believe that 240 days is in there for a reason: Because if your gasoline spikes in price, as we think it is, you can't stop it. It goes on for the 240 days.

I will end my remarks. I reserve the right to come back for additional remarks. One of the things I would like to go into is how energy inefficient this ethanol proposal really is because ethanol increases the need for gasoline, it does not reduce it. MTBE reduces the amount of gasoline you need. So if you are short refinery capacity, MTBE works to your advantage. Ethanol does exactly the opposite. If you don't have that refinery capacity, you are stuck. It is a big problem.

I would like to do more on that, but at the present time I send an amendment to the desk and yield the floor. I notice the distinguished senior Senator from New York is here and will continue our opposition to this ethanol mandate.

I yield the floor, if I might, to the Senator from New York.

The ACTING PRESIDENT pro tempore. Without objection, the pending amendments are set aside and the clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. FEINSTEIN] proposes an amendment numbered 3114.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To reduce the period of time in which the Administrator may act on a petition by 1 or more States to waive the renewable fuel content requirement)

Beginning on page 195, strike line 19 and all that follows through page 196, line 4, and insert the following:

“(B) PETITIONS FOR WAIVERS.—

“(i) IN GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, shall approve or disapprove a State petition for a waiver of the requirement of paragraph (2) within 30 days after the date on which the petition is received by the Administrator.

“(ii) FAILURE TO ACT.—If the Administrator fails to approve or disapprove a petition within the period specified in clause (i), the petition shall be deemed to be approved.

AMENDMENT NO. 3030 TO AMENDMENT NO. 2917

The ACTING PRESIDENT pro tempore. The Chair recognizes the senior Senator from New York.

Mr. SCHUMER. Mr. President, I thank my colleague for her strong and eloquent remarks. I ask unanimous consent to lay aside the pending amendment and call up amendment No. 3030 and ask for its consideration.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New York [Mr. SCHUMER] proposes an amendment numbered 3030.

Mr. SCHUMER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To strike the section establishing a renewable fuel content requirement for motor vehicle fuel)

Beginning on page 186, strike line 9 and all that follows through page 205, line 8.

On page 236, strike lines 7 through 9 and insert the following:

is amended—

(1) by redesignating subsection (o) as subsection (p); and

(2) by inserting after subsection (n) the following:

“(O) ANALYSES OF MOTOR VEHICLE FUEL CHANGES”.

The ACTING PRESIDENT pro tempore. The Senator from New York.

Mr. SCHUMER. Mr. President, I compliment my colleague from California for her fine remarks on this issue, which I share. We have a serious problem in this bill, a problem that most Members don't know about. There is a hidden gas tax in this bill. It is not going to be hidden after today.

This bill will raise the cost of gasoline on average in America more than the nickel gas tax did back in 1993, when I was not a Member of this distinguished body but which caused so much controversy.

I urge my colleagues to pay careful attention over the next few days as many of us bring up this issue. It is complicated. It is anti-free market, I say to my friend from Oklahoma who I know has been a strong defender of free market principles, when I agree with him and when I disagree with him. It is something that should not be in this bill. I think it could be the death knell of this bill, as the Senator from California said. I myself—and I know many others—cannot vote for this final bill with this provision included.

Let me express my concerns about this unprecedented new ethanol mandate provision which was quietly inserted into the Senate energy bill a few weeks ago without any debate. The provision accomplishes two goals not being disputed by my amendment. One

is banning the use of MTBEs which has resulted in groundwater pollution all over the country. The second is scrapping the oxygenate mandate that led so many States to make such heavy use of MTBEs in the first place.

The proposal in the bill provides an anti-backsliding provision to require continued efforts on clean air. Though those provisions could be stronger, we are not opposing any of those parts of the bill. But beyond those provisions, this new amendment adds an astonishing new anti-consumer, anti-pre-market requirement that every refiner in the country, regardless of where they are located, regardless of whether the State mandates it or not, regardless of whether the State chooses a different path to get to clean air, must use an ever-increasing volume of ethanol. If they don't use the ethanol—and this is the most amazing part of the bill—they still have to pay for ethanol credits.

Now, our amendment—the amendment I have introduced—would simply strike that provision, plain, simple, and clean. As to the provision we are striking, simply put, what it does is it requires all gasoline users, our consumers, to pay for ethanol whether or not they use it. It is nothing less than an ethanol gas tax levied on every driver—the mom who is driving the kids to school, a truck driver who earns a living. Every gasoline user in this country will pay.

Under this ethanol gas tax, gas prices will rise significantly, even under the best of circumstances. I am first going to bring this part out because I think this part will get the most attention in terms of people understanding how bad this provision is. Using Department of Energy numbers, impartial Hart/IRI Fuels Information Services estimates that gasoline prices will increase by a staggering 4 cents to 9.7 cents per gallon, depending on the region. Should there be market disruptions, which my friend from California brought up, the price would go much higher because without the gasoline they need, the ethanol they need, boom, it goes way up. It also favors some regions over others, so that California would pay the most—about 9.7 cents a gallon. So would New England. My State of New York would pay about 7 cents. But every part of the country would pay more—every single part. Even in the Midwest, where there is lots of ethanol production, the average price of gasoline would go up 4 or 5 cents a gallon.

Listen to this, my colleagues. In the heart of farm country—and I want to help farmers, as I think I have shown in my few years here—both Iowa and Nebraska had a referendum on the ballot to require this kind of provision and rejected it. Well, if the voters in the heart of farm country, in the heart of ethanol country, were against this provision, how are we in the Senate imposing this on every part of the country? I don't know what their philosophy is, but let me read from the Des Moines Sun Register:

An ethanol mandate would deny Iowans a choice of fuels and short circuit the process of establishing its own worth in the marketplace. The justification is to marginally boost the price of corn. If that were the goal, other measures would be far more effective.

How about the Quad City Times editorial entitled "Ethanol Only Proposal Doesn't Help Consumers."

How about the Grand Island (Nebraska) Independent: "Ethanol use should not be a forced buy."

How about the Omaha World Herald: "More Alcohol, Less Choice."

These are all editorials. I don't know about these newspapers. I doubt they are philosophically like the New York Times; yet they are thinking this is a bad proposal. I want to read for you about your States. This is a low estimate, but this is how much the price of gasoline will go up if this provision is kept in the bill, if our amendment is defeated. I will read every State. I think you ought to know it. This is important. The minimum is 4 cents, and in many it is 4 cents. In many it is higher. Keep your ears perked. Alabama would go up 4 cents a gallon; Alaska, 4 cents; Arizona, 7.6 cents; Arkansas, 4 cents; California—the senior Senator from California is here—9.6 cents a gallon; Colorado, 4 cents; Connecticut, 9.7 cents a gallon; Delaware, 9.7 cents; District of Columbia, 9.7 cents; Florida, 4 cents a gallon; Georgia, 4 cents a gallon; Hawaii, 4 cents a gallon; Idaho, 4 cents; Illinois—I just read in today's newspaper how the price of gasoline is going through the roof in Illinois. That would be an additional 7.3 cents a gallon. We are going to tell the drivers in Chicago and Springfield and East St. Louis, where the price is through the roof already, we are going to impose a mandate that will raise their price 7.3 cents a gallon. How can we?

Indiana, 4.9 cents; Iowa, 4 cents; Kansas, 4 cents; Kentucky, 5.4 cents; Louisiana, 4.2 cents a gallon; Maine, 4 cents; Maryland, 9.1 cents; Massachusetts, 9.7 cents a gallon; Michigan, 4 cents a gallon; Minnesota, 4 cents a gallon; Missouri, 5.6 cents a gallon; Mississippi, 4 cents; Montana, 4 cents; Nebraska, 4 cents a gallon for a product we don't make in New York, that we might not even use?

I have spoken to some of the refiners in our area. They think we can meet the clean air mandate in a lot cheaper and better way. If we choose to, we still have to buy the ethanol credit. My goodness.

Nevada, 4 cents; North Carolina, 4 cents; North Dakota, 4 cents; Ohio, 4 cents; Oklahoma, 4 cents; Oregon, 4 cents; Pennsylvania, 5.5 cents a gallon; Rhode Island, 9.7 cents; Tennessee, 4 cents a gallon; Texas, 5.7 cents a gallon; Utah, 4 cents a gallon; Vermont, 4 cents a gallon; Virginia, 7.2 cents a gallon; Washington, 4 cents a gallon; West Virginia, 4 cents; Wisconsin, 5.5 cents a gallon; Wyoming, 4 cents a gallon.

The reason it varies, of course, is the availability of ethanol. It is very hard

to ship. You can't create a pipeline—even though that could be expensive to do—the way you can for oil. So the ethanol has to be reduced, and you can see it is mainly in a few States in the heartland, where nice, hard-working people live, in the middle of the country.

If you are far away from these ethanol plants, it is hard to get to; it is hard for you to get the ethanol. It usually has to be produced, put on a truck, a barge, sent down to Mississippi, and then, by boat, sent all around the country and then loaded back, put on a truck, and put into the gasoline. You can see why it is so expensive.

Now, that is in normal times. Should there be market disruptions, of which you can be sure-as-shooting, if we are going to impose this huge mandate requiring more ethanol to be added to gasoline than we produce in the United States right now, there are going to be disruptions and the price of gasoline could double.

This is one of these quiet little amendments that could come back to haunt every one of us. I have been here in the Congress—only 4 years in the Senate but 18 in the House. Every so often, there is an amendment and people vote for it and don't pay much attention, and a year later the public gets wind and says: What the heck have those guys done? Everybody here says: I didn't know or, oh, we didn't realize it. The Senator from California, I, and the others joining us in this debate are putting you on notice: This is one of those amendments. Beware. If there was ever an amendment quietly put in a bill that should have a skull and crossbones on it, be careful, this is it. So pay attention.

Now, my State has already banned the use of MTBEs. We don't take that out in this bill. So have 12 other States, including Arizona, California, Colorado, Connecticut, Illinois, Kansas, Michigan, Minnesota, Nebraska, New Hampshire, South Dakota, and Washington. All have banned MTBEs. A number of other States are in the process of taking action as well because MTBEs pollute the ground water.

Every one of those States that has banned MTBEs is going to be in an impossible dilemma. Their citizens are demanding they ban MTBE, but with the oxygenate requirement in place, they cannot successfully do so.

Last year President Bush's administration denied California's petition to waive the oxygenate requirement, despite the State's ability to comply with air quality standards without it. In New York, we are in the same position. This denial forced the State to defer its critical ban on MTBE and suffer ground water contamination. New York State is now considering requesting a waiver, and I expect their request will be met with the same denial.

We are between a rock and a hard place. Our citizens' health and the environment are being held hostage to the desire of the ethanol lobby to make

ever larger profits. We all know one company is way ahead of everybody else in producing ethanol. That was brought out by my colleague from California. I am not going to bring it out—maybe I will since we are at the beginning of the debate.

This chart, which was prepared by my colleague from California, shows that 41 percent of the ethanol comes from one company. This is what we are doing in this great free market, capitalistic economy: We are requiring everybody to buy this stuff, and one company has 41 percent of the market—one company.

We are setting ourselves up for a huge fall, the kind of price spikes we have seen occasionally in California, in Illinois, and in other places. We are going to see them everywhere. They are going to pop up like weeds if we increase the demand for ethanol when only one company is making it and there is a natural bottleneck. It is not quite like electricity, but it is not that far away, electricity being an actual monopoly.

The bottom line is for many States that are outside the Corn Belt and lack the infrastructure to transport and refine ethanol, the most efficient method of achieving clean air goals will be to reformulate gasoline without using large amounts of ethanol.

Again, I have talked to leaders in the refining industry in my area, and they believe they can do it and do it rather easily. States outside the Corn Belt that do not currently use much ethanol will have to pay to have the ethanol, as I say, trucked across the country or floated on barges to the Gulf of Mexico and loaded on to tankers.

Those States will also have to pay to retrofit their refineries. Every refinery that does not now use ethanol will have to be refitted to add ethanol to the gasoline. Both of these would represent significant increases in costs for refineries supplying my State. Retrofitting would cost millions of dollars, and under this bill New York would incur millions more in ethanol transportation costs.

What is the public policy for mandating the use of ethanol? I have not heard one. If you believe ethanol works, as the Iowa, Nebraska, and Illinois newspapers said, let the market determine it. This is a mandate that sort of assumes we know ethanol is best for everybody, and most people do not believe it is.

We all know what is going on here. The Senator from California mentioned it. It is the ethanol lobby, their power. But we also have one other thing. They made their deal with the petroleum industry, and so we have this provision that does not allow one to sue. I am surprised that so many people on both sides of the aisle who have maintained the right to sue in every other area now say: Never mind. The provision is renewable fuels safe harbor.

There is another reason, too, and this is probably the most legitimate reason.

I know many of my colleagues from the Midwest want to help their farmers who are suffering. We know that. I want to help those farmers. I have voted for large amounts of agricultural subsidies to help the farmers in the West and the South with their row crops. I did not used to do that when I was in the House, but as I traveled around my State, I learned the burdens that farmers face.

It is a heck of a lot different if the Government makes a collective decision to help support the price of a crop to keep farmers in existence than an inefficient, jerry-built contraption that does not just make this what the Government does but, rather, forces every consumer to pay. When we have done agricultural subsidies, the rationale has been cheap food. This is not cheap gasoline. This is more expensive gasoline, and it absolutely makes no sense to help our farmers in this way. If it did, I suspect this amendment would have been debated in the open, but instead, as I said, there has been no debate.

I, frankly, wrestled with my conscience whether to go forward. I do want to help my colleagues in the farm areas, but this one was so far off the charts and so deleterious to my constituents, in terms of raising the price of gasoline, that I just could not come to do that.

I say to my colleagues from the Midwest, figure out better ways we can help the farmers, and I say that as somebody who has been supportive of doing that before.

Let me show my colleagues how crazy this proposal is. Currently, refiners across the Nation use 1.7 billion gallons of ethanol. That is what refiners use right now. Starting in 2004, a mere 2 years away, they would be required to use 2.3 billion gallons of ethanol.

Right away we are asking them to use a lot more ethanol. If the production does not happen, we know what is going to happen: a price spike.

We ratchet up that number to 5 billion gallons of ethanol in 2012 and increase it every year by a percentage equivalent to the proportion of ethanol in the entire U.S. gas supply after 2012 in perpetuity. That means that from 2012 on, the Nation's ethanol producers will have a guaranteed annual market of over 5 billion gallons, which every gasoline consumer in this country will pay at the pump.

It will stifle any development and new ways of finding cleaner gasoline and cleaner burning fuels. It means if someone comes up with a better way, it does not matter. It means a huge investment in infrastructure. I would rather have that money go to build our highways, for God's sake, than to build new ethanol refineries.

In my State, our highways are hurting, and we are going to be debating in the appropriations bill whether to cut Federal highway funding.

The ethanol mandate will reduce the amount of money that goes into the

highway trust fund. In addition, it will cost our consumers more as well. If we want to build a big infrastructure, do not create a whole new ethanol infrastructure which the market is not demanding, build more highways. It makes no sense.

One other point I have made already, this safe harbor provision is sort of the cherry on top of the icing on top of the cake, the evil cake it is. The safe harbor provision gives unprecedented product liability protection against consumers and communities that seek legal redress from the manufacturers and oil companies that produce and utilize defective additives in their gasoline. Not just ethanol; all of them. That was the sort of deal, I guess, that was made.

So for those who believe in their consumers, God forbid, and a refinery makes a huge mistake and puts something terrible in the gasoline that either pollutes the air or is defective, you cannot sue. We have held that insurance reform be over the right to sue. Much legislation ends up shipwrecked on the shoals of the battle of tort reform, and yet in this bill we say not only never mind, we put in a safe harbor provision that makes one's jaw drop.

The Presiding Officer was out of the room, but as I stated, it will raise the cost of gasoline in his great State of Delaware some 9.7 cents a gallon by the time this is implemented, something I think the drivers in Dover, Wilmington, Rehoboth, and all the other beautiful cities of Delaware would dare not want to pay.

For consumers throughout this country, this ethanol gas tax is a one-two punch. First, consumers will be forced to pay more at the pump to meet arbitrary goals that boost the sale of ethanol but are not necessary to achieve the bill's air quality goals.

Second, consumers will face restrictions from suing manufacturers and oil companies, and they will have less incentive to ensure the additives they manufacture and use are safe. The provision denies consumers and communities appropriate redress, eliminates an important disincentive to pollute, and creates a dangerous precedent for future environmental policy.

In conclusion, I support the anti-backsliding air quality provisions. I want to see our air cleaner without dirtying our ground water. I do not want to be put between that rock and hard place, but I strongly oppose creating a mandatory ethanol market, whether it is used or not, and providing the producers of that ethanol with extraordinary legal protections to boot. The ethanol industry already benefits from billions of dollars in direct farm subsidies and a 54-cent-per-gallon subsidy. If my colleagues want to subsidize that more, let us debate that in the Senate. Who knows? I might support it. But do not make our drivers pay for it and do not mandate it.

Ethanol, which is twice as expensive as gasoline, right now would not be

economically viable but for the massive Federal subsidies it already receives. On top of that, with the phase-out of MTBEs, regardless, the demand for ethanol by free market processes is going to go up. States near the Corn Belt will probably use more ethanol. So ethanol is in good shape.

All that is not enough to satisfy the ethanol lobby. As I said, do not take the word of a New Yorker or a Californian. Look at the voters in Iowa and Nebraska, the heartland—where if any place on the face of this continent or in this country would benefit from this mandate, they would—they both recently defeated efforts in those States to create a statewide ethanol mandate.

They knew, as I hope we will learn in this body, that mandated ethanol is an indefensible public policy and will unnecessarily hurt consumers all across the country. To my colleagues, defeat the ethanol gas tax.

I yield the floor.

The PRESIDING OFFICER (Mr. CARPER). The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I thank the Senator from New York for his comments. I thought they were excellent. I appreciate him naming every State that will have an effective gas tax, and stating that this methanol mandate is a tax hike anyway one looks at it. I do not think there is any doubt there is going to be an increase in gas prices. I do not doubt them at all.

I also appreciate his concern for farmers. I come from a State that is the largest farming State in the Union. I have spent time in the central valley of California. I know what farmers go through, and I appreciate it.

I am also faced with the problem in my State of forcing a tax hike for something that we do not need to meet clean air standards, which has questions about its environmental value as well as its real questions about what it might do to the public health, that prevents anybody's right to sue if there is a real hazard that comes about. This, to me, is unbelievable.

I will take a couple of moments on the subject of what ethanol does in gasoline. I mentioned in my remarks that ethanol is also fundamentally different from MTBE because the two oxygenated additives react differently when mixed with gasoline. I think this is an important point because this is not going to help the energy shortage. It is going to exacerbate it.

The same amount of ethanol, as opposed to MTBE, actually contracts fuel so it takes more to produce the same amount of gasoline.

The report, sponsored by the California Energy Commission, predicts replacement of MTBE by ethanol will result in a supply shortfall of 5 to 10 percent for the California gasoline pool as a whole. Thus, California's gasoline supply is not going to go as far as it did.

That is critical because we are at 98 percent of refining capacity. So I do

not know how we meet the need without a huge price spike that will result from a shortage of gasoline, and that is why I think for my State this mandate actually produces a very egregious gas spike. It also can impact refineries very critically.

So what I have tried to point out today is that essentially this mandate triples the amount of ethanol from 1.7 billion gallons used nationally today to 5 billion gallons nationally by 2012.

Secondly, because of the way the credit situation is set up, one pays whether they use it or not.

Thirdly, what it does to gas prices.

Fourthly, the market concentration of ethanol: 41 percent from one company, 71 percent from eight companies. That in itself creates a problem that if there is a shortfall the price can be manipulated.

I have mentioned the environmental problems, that we can anticipate the smell in the summer months will get worse, not better, because of the use of ethanol. I also indicated that essentially over the 9 years everybody should know that this is a \$7 billion cut in the highway trust fund.

There is another point I would like to make. The ethanol mandate essentially helps the producer. Only 30 percent goes to the farmers, and about 70 percent goes to producers. This is a windfall for those companies, any way you look at it. The New York Times ran an editorial pointing this out, mentioning that an energy economist estimated 30 percent of the cost will end up in the pockets of farmers, while about 70 percent will go to the processors, such as ADM. This mandate is a ridiculously expensive way to subsidize farmers.

Additionally, it cuts imports by about only 9,000 barrels, of about 8 million barrels. So no one can say this saves a great deal of our energy requirements related to fuel.

I ask unanimous consent this be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, July 8, 1994]

THIS CLEAN AIR LOOKS DIRTY

The Environmental Protection Agency has effectively ordered refiners to add corn-based ethanol to make gasoline environmentally friendly. But the added ethanol will not clean the air beyond what the 1990 Clean Air Act would already require; nor will it, as advocates claim, raise farm income very much or significantly cut oil imports.

What the E.P.A.'s rule will do is take money from consumers and taxpayers and hand it over to Archer Daniels Midland, which produces about 60 percent of the nation's supply of ethanol. It is certainly no coincidence that A.D.M.'s chief executive, Dwayne Andreas, is a major political contributor; he donated \$100,000 to a recent Democratic fund-raising dinner. The Clean Air Act requires high-smog areas to phase in use of "reformulated" gasoline whose weight is at least 2 percent oxygen; the goal was to reduce pollution by replacing gasoline with oxygenates. The E.P.A. order would now add another requirement: 30 percent of the oxygenates would have to come from "re-

newable" resources—which in reality means corn-based ethanol.

Because the oxygen content of reformulated gasoline remains unchanged, the order will not reduce smog-creating emissions. But by forcing refiners to use ethanol rather than less expensive oxygenates like methanol, the rule will drive up the cost of gasoline. Indeed, ethanol remains a high-cost additive even though it benefits from substantial tax breaks. And some experts argue that ethanol may be environmentally damaging because coal used in producing it contributes to carbon dioxide emissions, adding to global warming.

David Montgomery, an energy economist for Charles River Associates, estimates that only 30 percent of the cost of ethanol will wind up in the pockets of farmers while about 70 percent will go to processors like A.D.M. So the rule is a ridiculously expensive way to subsidize farmers. And the addition of ethanol will cut imports by only 9,000 barrels out of about eight million barrels a day.

Carol Browner, head of the E.P.A., asserts that the policy will spur development of renewable energy sources. But the impact looms small when stacked against the obvious defects. President Clinton is twisting high-minded environmental promises into low-minded favors for special interests.

ADDITIONAL GASOLINE COSTS FROM PROPOSED RENEWABLE FUELS STANDARD FOR YEARS 2003-2007 (AVERAGE INCREASE IN \$/GAL)

Hart Downstream Energy Services (Hart) compiled the following information based on the recent analysis from the Department of Energy, Energy Information Administration (EIA). According to EIA's analysis, the impact of the fuels provisions contained in S517 will cause conventional gasoline prices to rise by 4 cents per gallon, and Reformulated Gasoline (RFG) prices to rise by approximately 9.75 cents per gallon.

Assuming annual growth in U.S. gasoline demand of 2 percent, Hart measured the impact on each individual state by calculating the total gasoline cost increase and the total gallons of conventional gasoline and/or RFG sold in each state.

State	Gasoline price increase
Alabama	0.04
Alaska	0.04
Arizona	0.076
Arkansas	0.04
California	0.096
Colorado	0.04
Connecticut	0.097
Delaware	0.097
District of Columbia	0.097
Florida	0.04
Georgia	0.04
Hawaii	0.04
Idaho	0.04
Illinois	0.073
Indiana	0.049
Iowa	0.04
Kansas	0.04
Kentucky	0.054
Louisiana	0.042
Maine	0.04
Maryland	0.091
Massachusetts	0.097
Michigan	0.04
Minnesota	0.04
Missouri	0.056
Mississippi	0.04
Montana	0.04
Nebraska	0.04
New Hampshire	0.084
New Jersey	0.091
New Mexico	0.04
New York	0.071
Nevada	0.04
North Carolina	0.04
North Dakota	0.04
Ohio	0.04
Oklahoma	0.04
Oregon	0.04
Pennsylvania	0.055
Rhode Island	0.097
South Carolina	0.04
South Dakota	0.04
Tennessee	0.04

State	Gasoline price increase
Texas	0.057
Utah	0.04
Vermont	0.04
Virginia	0.072
Washington	0.04
West Virginia	0.04
Wisconsin	0.055
Wyoming	0.04
Aggregate Annual Cost Impact of All 50 States: \$8,389 Billion	

Source: Energy Information Administration (EIA), "Impact of Renewable Fuels Provisions of S1766," March 12, 2002. Compiled by Hart Downstream Energy Services.

AMENDMENT NO. 3115 TO AMENDMENT NO. 2917

Mrs. FEINSTEIN. I send another amendment to the desk which delays the beginning date from 2004 to 2005. It is sent to the desk on behalf of Senator BOXER and myself.

The PRESIDING OFFICER. Without objection, the pending amendments are set aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mrs. FEINSTEIN], for herself and Mrs. BOXER, proposes an amendment numbered 3115.

Mrs. FEINSTEIN. I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To modify the provision relating to the renewable content of motor vehicle fuel to eliminate the required volume of renewable fuel for calendar year 2004)

On page 189, line 3, strike "2004" and insert "2005".

On page 189, line 5, strike "2004" and insert "2005".

On page 189, line 8, strike "2004" and insert "2005".

On page 189, in the table between lines 10 and 11, strike the item relating to calendar year 2004.

On page 193, line 10, strike "2004" and insert "2005".

On page 194, line 21, strike "2004" and insert "2005".

On page 196, line 17, strike "2004" and insert "2005".

On page 197, line 4, strike "2004" and insert "2005".

On page 199, line 4, strike "2004" and insert "2005".

On page 199, line 17, strike "2004" and insert "2005".

Mrs. FEINSTEIN. This is modest and delays the implementation of the ethanol mandate by a year, eliminating a requirement to use 2.3 million gallons of ethanol in 2004 and will give States more time to make essential infrastructure, refinery, and storage improvements.

This is an essential modification since virtually all ethanol, as has been explained, comes by tank—not pipeline—from the Midwest.

Although the ethanol industry says they can meet the future demand, virtually every single expert we have talked with has said delivery interruptions and shortfalls are likely, if not inevitable.

I ask I be included as a cosponsor of the amendment of Senator SCHUMER to strike the renewable fuels section of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. Mr. President, I send to the desk to be printed in the RECORD an editorial from the Sacramento Bee entitled "Highway Robbery," which essentially characterizes what this does to the highway trust fund, how it hurts the country, how energy experts show that producing ethanol from corn requires more energy than the fuel produces, and that the ethanol mandate would make the country more fossil fuel dependent, not less.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Sacramento Bee, Apr. 8, 2002]

HIGHWAY ROBBERY—CORN IS FOR EATING, NOT FOR DRIVING

Here's another piece of the ethanol idiocy in Washington: Not only will Californians soon have to pay more for gasoline laced with corn liquor, but as a result, we'll have less money to alleviate congestion on our roads.

Blame this nonsense on Senator Majority Leader Tom Daschle, D-S.D., and President Bush. They are pushing a provision for the Senate energy bill that would require gasoline producers to use rising amounts of ethanol. Ethanol is mostly made from corn in states that Bush would dearly like to win in the next election.

The measure would eliminate the current requirement in the Clean Air Act that smoggy areas use gasoline containing an oxygen additive—either ethanol or MTBE. But then it goes ahead to require that refineries triple their purchases of ethanol for gasoline by 2012.

The mandate hurts consumers in obvious ways: It will drive up the cost of driving, taking dollars out of the pockets of motorists and putting them into the coffers of Archer Daniels Midland, the Enron of the Corn Belt, which dominates the ethanol market. (Why is it that the politicians who are eager to give back their Enron donations seem to have no trouble taking money from—and giving billions in benefits to—a company that was convicted of price fixing a few years ago?)

The mandate will also hurt the country. Although ethanol is touted as a renewable fuel, a recent study by Cornell University scientist David Pimentel shows that producing ethanol from corn actually requires more energy than the fuel produces. The ethanol mandate would thus make the country more fossil-fuel dependent, not less.

But the mandate will also hit in a less obvious way: It will take dollars away from transportation investment. That's because ethanol already gets another federal subsidy—the federal fuel tax at the pump is a nickel less on fuel containing ethanol. If the Daschle-Bush ethanol mandate is passed, federal revenues for transportation repair, operation and construction will plummet by nearly \$3 billion a year, transportation experts estimate.

So this is what Californians get from the proposed Daschle-Bush ethanol bailout—higher prices at the pump and more crowded roads. It gives the term "highway robbery" a whole new dimension.

Mrs. FEINSTEIN. Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. 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. MURKOWSKI. Mr. President, I have listened to portions of the debate this morning. Obviously, on the issue of ethanol we will have extended discussion, but I am sympathetic to the concerns expressed by the Senator from California and the Senator from New York. It addresses an underlying situation in this country of which we should all be aware. The mandate on ethanol in the energy bill is quite clear, and the realization that the ethanol industry is not prepared, does not have current capacity.

As a consequence, more gasoline will have to be used. That brings into focus the reality of where our gasoline comes from; it comes from crude oil. Where does crude oil come from? Most of it comes from overseas. We are seeing a price increase for a couple of reasons. The effectiveness of the OPEC cartel, which some time ago set a floor of \$22 and a ceiling of \$28, is shown with the price of oil up to \$27. We are seeing a situation escalate in the Middle East. Saddam Hussein, who is supplying this Nation with roughly a million barrels a day, has indicated he is going to cease production for 30 days. Venezuela, our neighbor, that we depend on from the standpoint of proximity, is on strike. It is estimated the United States, in the last few days, has lost 30 percent of its available imports. These are the underlying issues associated with the debate in the sense of price.

Where does gasoline come from? It comes from crude oil. Where does crude oil come from? From overseas, because we have increased our dependence on those sources. It gets more complex when considering the motivation occurring as a consequence of the policies of Saddam Hussein and Iraq. He is paying the families of those who sacrificed their lives to kill people in Israel. It used to be \$10,000 per family; now it is \$25,000 per family. This whole thing is escalating. It is escalating as a consequence of the costs of oil increasing because that is where the cashflow emanates.

Procedurally, may I make an inquiry as to where we are on the timing and so forth?

The PRESIDING OFFICER. There is an order to proceed to another measure at 11:30.

Mr. MURKOWSKI. I ask unanimous consent for 4 more minutes, until such time as I see Members are ready to proceed.

The PRESIDING OFFICER. The Chair will note the presence of the manager for the majority. Is there objection to the request to proceed for 4 minutes?

Mr. DODD. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, let me summarize the dilemma. By our own inaction, we are seeing, if you will, greater vulnerability as this country increases its dependence on imported

oil. As I have indicated, Venezuela is on strike. Iraq has terminated its production. We are told there is a grave threat in Colombia by revolutionists who are threatening to blow up the pipeline. There are complications now that the Saudis have been accused of funding, if you will, terrorist activities associated with the deaths of Israelis and the bombings, human bombings that have taken place.

As we address this vulnerability, we have to recognize the reality. It focuses in on the current debate on ethanol. As we look at where we are, we are going to have to have more gasoline in California; we are going to have to have more gasoline in New York. The price is going to go up.

Our alternatives, it seems to me, are quite obvious. We should reduce our dependence on imported sources. That brings us to the ANWR debate which will be taking place very soon.

Finally, the Schumer amendment would strike the renewable fuels standards, as we know, contained in section 819 of the bill. That portion called for mandated use of renewable motor fuels such as ethanol and biodiesel. This mandate is part of a larger package of provisions on MTBE and boutique fuels, and I am certainly supportive of reducing the boutique fuels.

I am not usually a big fan of mandates, but the renewable fuel standards will reduce our dependence on foreign oil.

I will have more to say later, but I encourage my colleagues to participate in this discussion and recognize the significance of our increased vulnerability and why we are going to be using the gasoline when in reality we will be paying for it.

I find it ironic that California is dependent on Alaska, and as Alaskan oil declines, that dependence is going to shift over to the importation of oil to California from Iran, Iraq, wherever—Saudi Arabia. Of course, New York is dependent on Venezuelan oil as well. If we do not do something domestically, we are going to pay the piper.

I yield the floor.

EQUAL PROTECTION OF VOTING RIGHTS ACT OF 2001

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 565, which the clerk will report.

The senior assistant bill clerk read as follows:

A bill (S. 565) to establish the Commission on Voting Rights and Procedures to study and make recommendations regarding election technology, voting, and election administration, to establish a grant program under which the Office of Justice Programs and the Civil Rights Division of the Department of Justice shall provide assistance to States and localities in improving election technology and the administration of Federal elections, to require States to meet uniform and nondiscriminatory election technology and administration requirements for the 2004 Federal Elections, and for other purposes.

Pending:

Roberts/McConnell amendment No. 2907, to eliminate the administrative procedures of requiring election officials to notify voters by mail whether or not their individual vote was counted.

Clinton amendment No. 3108, to establish a residual ballot performance benchmark.

The PRESIDING OFFICER. Under the previous order, there will now be 30 minutes of debate equally divided between the Senator from Connecticut, Mr. DODD, and the Senator from Kentucky, Mr. MCCONNELL, or their designees.

MODIFICATION TO AMENDMENT NO. 3107

Mr. DODD. Mr. President, I ask unanimous consent that amendment No. 3107, previously agreed to, be modified with the technical correction that I now send to the desk.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

The modification to the amendment is as follows:

At the appropriate place in the bill, insert page 13, line 12 through page 14, line 7 of the amendment.

Mr. MCCONNELL. Mr. President, this is a big day for the Senate. After a year and a half of discussions, negotiations, introduction, and reintroduction of legislation, we are finally prepared to pass a comprehensive, truly bipartisan election reform bill.

I say "finally," but the truth is, a year and a half is lightning fast in the Senate. Senator TORRICELLI and I proposed a comprehensive election reform bill before the dust had settled in Florida. Shortly after, Senator TORRICELLI and I joined with Senator SCHUMER to put together yet another bill which garnered the support of 71 Senators—fairly evenly split between Democrats and Republicans. Senator DODD, meanwhile, introduced legislation that was supported by all Democratic Senators.

Four months ago, Senators DODD, BOND, SCHUMER, TORRICELLI, and I reached a bipartisan compromise. That was brought before this body in February. Through the passage of thoughtful amendments offered by my colleagues on both sides of the aisle, we have substantially improved the underlying bill. The final product is legislation which ensures that all Americans who are eligible to vote, and who have the right to vote, are able to do so, and to do so only once. This bill strengthens the integrity of the process so that voters know that their right to vote is not diluted through fraud committed by others. This legislation will make American election systems more accurate, more accessible, and more honest while respecting the primacy of States and localities in the administration of elections.

I look forward to a House-Senate conference so that soon we may move even closer toward enactment of a law that will improve America's election systems.

I thank Senator DODD for his steadfast and persistent leadership on this

issue. He truly has been the champion of promoting accessibility in elections. My thanks to Senator BOND who gave us our rallying cry behind this bill, "making it easier to vote, and harder to cheat." This bill does just that and Senator BOND deserves the lion's share of the credit for that accomplishment. I also thank Senator SCHUMER, who joined with me nearly 1 year ago to advance a new approach to this issue. Any my thanks to Senator TORRICELLI, who has been there from the beginning with me in this exercise. I thank you all for your hard work and perseverance which has brought us to this triumphant moment.

Before I yield the floor, I would like to reiterate my strong opposition to the Clinton amendment which we will vote on shortly. The amendment creates a federally mandated acceptable error rate that is a one size fits all number. This approach is completely contrary to every other provision of this legislation.

If adopted, this amendment would do three things:

No. 1, Deliver the Department of Justice into our home States to prosecute our State and local election officials for choices made by or errors committed by voters;

No. 2, Undermine the sanctity of the secret ballot and

No. 3, Force the elimination of many voting systems used across this country.

On that last point, I urge my colleagues who hail from States which use paper ballots, mail-in voting or absentee voting to take a close look at this amendment. Your States will have a choice: change their systems or recruit top notch legal talent to defend themselves in court.

This choice will also be faced by States using lever machines, punch card systems, optical scans, and DRE machines.

If this amendment is agreed to, perhaps we should move to increase the Justice Department appropriation so that it can ready a team of lawyers for each State.

Finally, I thank my staff on the Rules Committee: Brian Lewis, Leon Sequeira, Chris Moore, Hugh Farrish, and our staff director, Tam Somerville—all of whom have been deeply involved in this issue from the beginning—and, from Senator DODD's staff, Shawn Maher, Kenny Gill, Ronnie Gillespie, we have enjoyed working with them.

Also, on Senator BOND's staff, Julile Dammann and Jack Bartling have been truly outstanding. It has been a pleasure to work with them.

On Senator SCHUMER's staff, Sharon Levin; and, on Senator TORRICELLI's staff, Sarah Wills—we appreciate the opportunity to work with all of these folks in developing this legislation.

I see my colleague from Missouri is here. I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. Mr. President, how much time is available on this side?

The PRESIDING OFFICER. Ten minutes.

Mr. BOND. I thank the Chair. I will not require that much time, but please advise me if I go over 5 minutes.

Mr. President, I come back again to congratulate and thank the chairman and ranking member of this committee, Senator DODD and Senator MCCONNELL, for their great work.

It has been 10 long, arduous months to do something that is vitally important to the health and the vitality of our system of legislative government. The 2000 election opened the eyes of many Americans to the flaws and failures of our election machinery, our voting systems, and even how we determine what a vote is. We learned of hanging chads, inactive lists, and we discovered our military votes were mishandled and lost. We learned that legal voters were turned away while dead voters cast ballots. We discovered that many people voted twice while too many were not even counted once.

That is why we are here today. The final compromise bill—and it is a compromise in the true essence of the word—tries to address each of these fundamental problems we have discovered and to meet the basic test. That test, I trust all of my colleagues now understand, is that we must make it easier to vote but tough to cheat.

In the 2000 elections, fraud was prevalent. Fraud was too frequently found. Among the most bizarre and fraudulent efforts that occurred in St. Louis was the filing of a lawsuit by a dead man to keep the polls open beyond closing time because he feared the long lines would prevent him from voting. That probably wasn't the only problem he had. His identification was later switched to that of a partisan political operative for a congressional candidate even though evidence showed that man had already voted that day. Unfortunately, the practice of the deceased voting was not limited to the lawsuit to keep the polls open. We have had a number of ballot registrations made in the name of people who have departed this earthly veil.

Albert "Red" Villa registered to vote on the 10th anniversary of his death—truly a significant theological effort. The deceased mother of a prosecuting attorney in St. Louis City was also registered to vote.

This was the mayoral primary of 2001 which got people excited in St. Louis because it wasn't a minor election where we just voted for the President, the Governor, the Senators, and Congress. We were talking about relevant votes there. We were talking about the race for the mayor's office which controls votes and which controls jobs in the City of St. Louis.

We also had our own outrageous system of provisional voting underway in St. Louis City. People went to judges

and said they didn't show up on the registration list so they asked for court orders to be permitted to vote. Some of the reasons given, which were accepted by our judiciary, were that they should be allowed to vote because they were legally registered. One of them said: I am him a Democrat. The other said: I wanted to vote for Gore. The other said: I was suffering from a mental illness. My favorite was: I am a convicted felon and didn't realize I had to reregister. That person, and 1,300 others, were allowed to vote even though it is against the law for a felon to vote in Missouri.

Subsequent investigation by the secretary of state in Missouri found that 97 percent of those who were ordered to vote by judges voted illegally. They were not entitled to vote.

That is why the whole structure of this bill is so important. Provisional voting will be permitted, but actually putting the ballot in the ballot box will be delayed until there has been an opportunity to ascertain that the person is a registered voter.

We have seen fraud. I think perhaps it was best described by the Missouri Court of Appeals in shutting down the fraudulent effort to keep the polls open. The argument in St. Louis City was that the Democratically controlled City Election Board in the Democratic City of St. Louis was conspiring to keep the Democratic voters in St. Louis City from voting for Democratic candidates. That was the suit filed by the dead man who said that the long lines kept him from voting. The Missouri Court of Appeals said it best in its order shutting down the polls when it said:

Commendable zeal to protect voting rights must be tempered by the corresponding duty to protect the integrity of the voting process. Equal vigilance is required to ensure that only those entitled to vote are allowed to cast a ballot. Otherwise, the rights of those lawfully entitled to vote are inevitably diluted.

We have seen not only people who have rightfully been denied the opportunity to vote. Unfortunately, the votes of those who have the right to vote have been diluted and have been canceled because fraud has been prevalent in St. Louis, and I believe in other areas of the country.

This bill goes a long way towards achieving the goal of making it easier to vote and harder to cheat.

I urge the support of my colleagues for this very important bipartisan measure. I extend my thanks to the chairman and the ranking member of the Rules Committee.

Mr. DODD. Mr. President, I yield 2 minutes to the distinguished Senator from Oregon, Mr. WYDEN, and 2 minutes to the distinguished Senator from New York, Mr. SCHUMER.

For the information of Members, at the conclusion of that, depending on the time left of my friend from Kentucky, we will close debate, and there will be a vote on the Roberts amend-

ment, then a vote on the Clinton amendment, and then a vote on final passage. That is how this will play out over the next 45 minutes or an hour.

So with that, let me turn to my colleague from Oregon and thank him and the Senator from New York for their tremendous support and tireless effort on behalf of this piece of legislation.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I begin by expressing my thanks to Senator DODD and Senator MCCONNELL. Both of them worked tirelessly with me and Senator CANTWELL and others.

This legislation we will vote on will now protect an innovation, a pioneering step forward that I think is going to make a huge difference for the American people; that is, voting by mail.

What we saw earlier, as the debate went forward, was various proposals that would have put new hurdles, new obstacles in front of this legislation that has empowered thousands and thousands of Americans. I am very proud that my State has led the way in this innovative approach, but I think it is the wave of the future.

There is a reason why millions of older people and disabled people and others enjoy and prefer voting by mail. They like the convenience, and they understand that it meets the test that Senator BOND and others have talked about, which would be a winning combination for the American people.

Let's make it easier to vote but not easier to cheat. Voting by mail has proven it is up to that challenge. We have shown in our State that we will come down with a every aggressive effort against those who try to abuse the system, try to exploit it. We have not seen any significant problem with it.

It is a bipartisan effort. Senator SMITH has joined with me in it. Senator CANTWELL has made the case for the State of Washington.

I close by saying that over many months Senator DODD and Senator MCCONNELL, knowing that we were camped out with their staffs, could have said, look, this is an issue that only a couple States care about, but they did not. I think they have showed their commitment not just to protecting people in Oregon or Washington who feel so passionately about this subject, but I think they understand this truly is a pioneering step forward. It is part of the wave of future. It is the next step before we see people voting online.

From the beginning of this debate, I have said that this legislation should be about deferring voter fraud and promoting voter participation. Many weeks of negotiations finally have produced an agreement that I believe will do both.

If first-time Oregon voter Mabel Barnes had mailed in her ballot under the election reform bill that was on the Senate floor 6 weeks ago, her vote probably would not have counted—even

if she were legally registered to vote. Her vote would have been tossed away simply because she failed to include with it a photo ID or other proof of identification.

Mabel Barnes would not have been alone. Under the bill that was on the Senate floor then, millions of first-time voters would have been disenfranchised just because they failed to bring a copy of their photo ID to the polls.

But Mabel Barnes and millions of other first-time voters won't have to worry about their votes counting now, and they won't have to worry about stopping by a copy center before they vote. That's because over the course of the last few weeks Senators CANTWELL, BOND, MCCONNELL, MURRAY, and I have worked out an agreement that protects Oregon's vote-by-mail system and the right to have every mail-in-vote by a legally registered first-time voter count.

The agreement Senators CANTWELL, BOND, MCCONNELL, MURRAY, and I worked out gives voters who register by mail more options to verify their identity. Instead of a photo ID or proof of residence, first-time voters in a state may put their driver's license number or the last four digits of their social security card on their registration card. This means they won't have to stop by a copy center before they register or before they vote. This will mean business as usual for the petition drives and campus registration efforts in Oregon, where thousands of first-time voters register by mail.

The agreement also guarantees that voters who cast their ballots by mail have the same provisional or replacement ballot rights as voters who go to the polls. Under the agreement if a first-time voter in a state fails to supply a driver's license number or the last four digits of their social security number when they register, their vote will still count if state election officials determine they are eligible under state law. In Oregon, this means that the vote of every legally registered Oregonian will count if an election official verifies that the signature on the ballot matches the signature on file with the registration.

Under the agreement, Oregon's pioneering vote-by-mail system will continue, unchanged.

I understand where the photo ID requirement sprang from: a concern that mail-in voter registration and balloting engender fraud. But in Oregon—the only all vote-by-mail state and the state that pioneered motor voter—there is very little fraud. No one has come forward with proof of widespread fraud in Oregon. In fact, I was elected to the United States Senate in the first all vote-by-mail special election. Senator GORDON SMITH, my opponent in that race, never raised any questions about fraud. Oregon's penalties for fraud are much tougher than federal law—up to \$100,000 in fines and or 5 years in jail.

Since Oregonians voted overwhelmingly to use a vote-by-mail system, participation has gone up and fraud has gone down. In fact, in the last federal election, 80 percent of the registered voters cast a ballot. Since the May 1996 primary, 13 cases of fraud have been prosecuted; convictions were won in five and eight are still pending. In the last federal election, only 192 ballots were not counted because they failed the signature verification test. This is a pretty good record.

This legislation should be about deterring voter fraud and not voter participation. The agreement Senators CANTWELL, BOND, MCCONNELL, MURRAY, and I have reached does this. The time to fight fraud is at the beginning of the process—at the time of registration. That is what our agreement does. At the same time, I have also said that legislation should not make it harder for legally registered voters to cast a ballot, or discourage people from voting. The agreement will do this as well.

This has not been an easy task. I want to commend Senators BOND, CANTWELL, MCCONNELL, and MURRAY for sticking with the negotiations, and I especially want to thank Chairman DODD for the support he and his staff have given us in reaching the agreement and in including it in the managers' package.

I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from New York.

Mr. SCHUMER. Mr. President, I reiterate what I said last night. Senator DODD was indefatigable on this bill. It would not have happened without him. Senator MCCONNELL was steadfast in terms of principle, sticking to what he believed but making sure we had a bill done. I thank them both for their leadership as well as my other colleagues who worked so hard on this bill.

Mr. President, democracy works slowly—sometimes too slowly—but inexorably. We had the great scandal in Florida where people could not vote, where people's votes were not counted, where people voted for the wrong person despite their intention.

Now, almost 2 years later, we are doing something very real about it. I wish it had come sooner, but this bill has been worth waiting for.

And the problem is not just in Florida, as we learned. In my State of New York, I voted, first, in 1969. I used the same exact type of machine when I voted in 2001, despite all of our technological changes. And the lines to vote in New York are legion. Just because we are the world's oldest democracy does not mean we have to use the world's oldest technology.

At the core of this bill is a view that that changes, that we will help the States update.

Despite the strength of our democracy, if we do not do a good job maintaining the actual mechanism that drives it—our voting systems—we fail the voters and undermine the values

for which our Founding Fathers fought and died.

Voting should be accessible, accurate, and speedy in all places, all of the time. This is not a someplace, some-of-the-time proposition. The right to vote is too sacred. This bill provides both the funds and the standards to make sure that exactly happens.

So I urge all my colleagues to have a rousing vote of support for this bill. We often have an opportunity to support legislation that makes our lives better. That is why we are here. But today we have an opportunity to make a little history. And it is something we will never forget.

PROVISIONAL VOTING AND VERMONT

Mr. JEFFORDS. Mr. President, I would first like to thank Senator DODD for all his hard work on this very important bill. This legislation will help ensure that the problems that occurred during the 2000 elections will not happen again, and hopefully increase the number of Americans that participate in the most sacred right of a democracy, voting. I would like to take this opportunity though to discuss the provisional voting section of the bill and its effect on the affidavit voting system we have in Vermont.

Mr. DODD. Mr. President, I thank Senator JEFFORDS for his early support of reform of the election system. I also appreciate his hard work to ensure that the good qualities of Vermont's election system are protected and replicated around the United States. I would be pleased to take the time to answer any question he may have on the provisional voting section of the bill.

Mr. JEFFORDS. In Vermont when a person arrives at the polling place to vote and their name does not appear on the voter checklist, even though they believe they have properly registered, we have a system that would allow them to cast a ballot. The voter completes an affidavit form swearing that they had properly applied but were not added to the voter checklist. The form is reviewed by the Board of Civil Authority at the polling place and unless the information appears false the person is allowed to cast a ballot. If the information appears to be false, the Board of Civil Authority will not allow the person to cast a ballot and refers them to a local judge to get added to the voter checklist for the election that day.

The ballots cast this way are counted exactly like the other ballots and included in the final totals. The information from the approved affidavits is immediately used to update the voter checklist. My question to you Senator DODD is that while this system is not called a provisional balloting system it appears to me that the affidavit voting system conforms to all the requirements in this legislation, and therefore the State of Vermont would already have satisfied the provisional balloting requirements of the bill?

Mr. DODD. I would agree with the Senator from Vermont. In mine and

my staff's review of different States' election procedures, Vermont's system of affidavit voting would satisfy the provisional balloting requirements of this legislation.

Mr. JEFFORDS. I appreciate Senator DODD's clarification of this issue, and look forward with working with him to ensure enactment of this important legislation.

MAINE'S SAME DAY REGISTRATION

Ms. COLLINS. Maine has same day registration so a voter can register at the polls or at a public office nearby and vote on the same day. If someone challenges the voter's right on that day, the ballot is marked as a challenged ballot. If a voter goes to the polls to vote and does not have identification or does not appear on the voting rolls, the presiding election official will challenge the voter, and his or her ballot will be treated as a challenged vote. The presiding election official keeps a list of voters challenged and the reason why they were challenged. After the time for voting expires, the presiding election official seals the list. The challenged votes are counted on election day. In the event of a recount, and if the challenged ballots could make a difference in the outcome of the election, the ballots and list are examined by the appropriate authority. The distinguished chairman of the Senate Committee on Rules has done excellent work crafting the important bill before us. I would ask him whether, then, Maine's system comply with this Election Reform Act?

Mr. DODD. I thank the Senator from Maine for her excellent question and for her steadfast support for election reform efforts. Let me assure her that Maine's system does comply with the Election Reform Act.

Ms. COLLINS. I would like to thank the senior Senator from Connecticut for his assistance and congratulate him on the impending passage of this bill.

ELECTION DAY AS NATIONAL HOLIDAY COLLOQUY

Mrs. BOXER. I thank my good friend from Connecticut and commend him for his hard work on this bill; I agree with him when he refers to this as "landmark legislation." The Dodd-McConnell compromise makes many necessary improvements in our current elections system and moves us toward the ultimate goal that we all share of ensuring that our elections are fair, accurate and accessible to all.

In addition to securing the fairness of elections, however, I believe that it is in the best interest of our Nation, as with any representative democracy, to see that as many people as possible participate in the process. Would my friend from Connecticut agree with me that ensuring high turnout at the voting booth is also an important goal in terms of improving our electoral process?

Mr. DODD. I certainly agree with my good friend from California, and hope that this bill will help achieve that goal by improving accessibility, offering ballot materials in alternative lan-

guages and by addressing some of the things that can make the voting process intimidating or confusing.

Mrs. BOXER. One idea that has come up time and again in conversation with my constituents and various organizations in my State of California, is the possibility of creating a Federal holiday on election day. I think that this would be one of the most effective ways to ensure that as many people as possible have an opportunity to cast their vote and exercise that most fundamental democratic right. Many of the hard-working people in this country—people for whom election day represents a unique opportunity to make their voices heard—find it difficult to get to the polls. Many work long hours, or have children that they have to get to school. Would the Senator from Connecticut agree that we should make it easier for these people to cast their vote as well?

Mr. DODD. I agree with the Senator from California, and I would tell her that is the idea behind the entire legislation. We want to make sure that all eligible voters have an opportunity to cast their ballot and have it counted fairly and accurately.

Mrs. BOXER. I had considered offering an amendment to this bill that would in fact create a federal holiday on election day to help give as many people as possible the opportunity to vote. I would ask my friend from Connecticut if such a proposal was ever considered when this bill was being drafted?

Mr. DODD. I say to my friend from California that I did consider including a provision to that effect in the bill. We looked into the ramifications such a provision would have and, with time running short, ultimately concluded that there were too many variables and that we simply did not have enough information to include it as a requirement in the bill. We did, however, instruct the Election Administration Committee—the new election oversight body created by the bill—to conduct a study on conducting elections on different days, at different places, and during different hours, including the possibility of creating an election day holiday.

Mrs. BOXER. I hope that such a study would be thorough in investigating each of those possibilities and that it would be conducted as soon as reasonably possible. If such a study were to conclude that the creation of an election day holiday was possible and would indeed further the goals of this bill, we would want to begin the process of making it happen as soon as possible. Could my friend from Connecticut assure me that this study will be thorough and will be undertaken promptly upon enactment of this legislation?

Mr. DODD. I share the Senator from California's interest in moving forward with such a study as soon as is possible.

Mrs. BOXER. I look forward to working with my good friend from Con-

necticut in pushing the Commission to complete the study. In the meantime, I am introducing legislation to establish election day in Presidential election years as a legal public holiday.

Mr. DODD. I thank the Senator from California.

ELECTRONIC VOTING

Ms. CANTWELL. Mr. President, I take this opportunity to commend Senators DODD, MCCONNELL, SCHUMER, and BOND for their dedication and diligence in addressing what I believe to be an issue of critical importance to our country—protecting voting rights and ensuring the integrity of the electoral system in our Nation. Especially given the events in the world today, making certain that each citizen's vote is counted and promoting public trust and confidence in our election process is crucial.

The State of Washington has a long and trusted history as a leader in election administration. Through great efforts and cooperation, the state has pioneered such programs as Motor Voter, provisional balloting, vote by mail, and absentee voting.

I would like to thank Senator DODD, the chairman of the Rules committee for his support for an amendment that I offered with Senator MURRAY's support that has been adopted. The amendment guarantees that states are able to continue using mail-in voting, while also providing new safeguards to make mail-in voters aware of how to properly fill out their ballots, and how, if needed to obtain a replacement.

Voters in my State are proud of our system that offers voters the option of voting by mail or in the polling place, and they are extremely committed to seeing it continue. The mail-in ballot, in my opinion, offers voters several advantages. First, it allows voters to cast their ballots on their own time and at their own convenience. It also allows voters to make more informed choices, as they are able to consult literature sent by the State and by the campaigns in making their decisions. Because these votes are cast without the pressure of other voters waiting in line, or without the time crunch of being late to work or to pickup the kids, voters are also less likely to make mistakes that will disqualify their ballots.

In addition, the mail-in system is very secure. Each ballot that is cast by mail requires, that the voter sign the outer envelope. This signature is then checked against the voters signature that is kept on file and only when there is agreement that the signatures match is the ballot counted. Washington State has consistently increased the number of voters choosing to vote by mail and through provisional voting without any allegations that these types of voting have involved fraud or other misconduct. In fact, the procedures in place have consistently ensured the integrity and security of our elections and led to public confidence in our system that is unparalleled anywhere in the country.

It has not always been this way. In the early 1990s, we had several close elections that pointed out the vulnerabilities in our system. These close elections led Washington to become one of the first States to adopt statewide guidelines that ensured that each jurisdiction followed the same rules in determining how ballots are verified and counted. In addition, my State also adopted other requirements for testing and procedural consistency. It is my hope that this legislation will lead other states to follow our example and institute similar guidelines and procedures that will result in more people voting and making sure that all votes are properly cast and counted.

Our challenge, at the Federal level, is to ensure that in passing legislation that reduces hurdles to civic participation across the country, we respect the role of the States in selecting types of voting that work well for their citizens and lead to maximum participation. I believe that this bill as amended does that, and I would like to thank the chairman of the Rules Committee for his commitment to this bill and to ensuring that states have the flexibility to keep their systems in place.

I would like to address one additional point. In drafting legislation, it is often very difficult to look to the future and anticipate the impact that legislation will have on new technologies. To truly reform the Federal election process, this legislation must remedy the infirmities of the present system. However, it also must be forward-looking in its approach. It should welcome the implementation of new election technologies. The flexibility of this legislation to accommodate innovation will be the ultimate strength of federal election reform.

I firmly believe that voting by computer, whether by internet or some other remote electronic system, is likely to happen in many states in the near future. In fact, Arizona has already held a party caucus in which voters were permitted to vote over the internet. At the same time, I believe that the security concerns are such that most States, mine included, are not yet ready to provide this option to voters.

However, in the interests of looking to the future, I would like to seek clarification from the chairman of the Rules Committee about how this legislation would affect internet or other forms of remote electronic voting.

Is it the Chairman's understanding that the bill as it is currently written would not prevent States from offering voters the option of voting on the internet, so long as the State could show that the internet voting system complied with the security protocol standards written by the new Election Administration Commission, and that the voting system also complied with the requirements of the legislation on accessibility for the disabled, providing an audit trail of ballots, and by providing voters a means to make certain they had not made a mistake?

Mr. DODD. I agree with Senator CANTWELL that very serious concerns remain about voting by internet. As she knows, this legislation specifically requests that the new organization, the Election Administration Commission, study internet voting. I am looking forward to seeing what it learns. However, I hope very much that States will think very carefully before moving to internet voting, and will make sure that the security concerns are fully addressed.

That said, the Senator is correct that nothing in this bill prohibits states from implementing voting on a remote electronic system like the internet, as long as the system is certified by the new Election Administration Commission, and complies with the other standards in the legislation.

I agree with the Senator that it is important to welcome the development of new election technologies and it was my intent, and my cosponsors' intent to provide the states as much flexibility as possible to accommodate innovation while still implementing necessary minimum standards that will ensure that all our citizens' right to vote is protected.

Ms. CANTWELL. Thank you, Mr. Chairman. I appreciate all your efforts on this legislation, and I agree that this bill is drafted in a manner that will not limit the development and implementation of new election technologies so long as the new technologies satisfy security protocols and meet the requirements of the minimum standards. I also hope that this legislation will in fact spur the development of new election technologies that are more voter friendly and more cost efficient.

INTERACTIVE VOTER REGISTRATION AND FUNDING MECHANISM

Mrs. LINCOLN. Mr. President, I rise to commend the sponsors of the election reform bill that is before the Senate today. I especially want to recognize Senators DODD and MCCONNELL who have worked tirelessly to overcome many obstacles in an effort to strengthen the fundamental right of all citizens to participate in the democratic process. I wholeheartedly support their overarching goal to make it easier for every eligible American to vote and to have their voted counted and I appreciate their willingness to work with me to address some specific concerns about how the bill may impact my home State of Arkansas.

I wish to engage in a brief colloquy with Chairman DODD to clarify for the record his understanding of how two specific provisions in the legislation will work in practice. The first point I want to raise involves the requirement in the Senate bill that all States implement a statewide interactive voter registration list. Is it the Senator's understanding that States can meet this requirement by having an interactive computer containing voter registration information at each county clerk's office but not at each individual polling location?

Mr. DODD. As the lead sponsor of the Senate bill, I am pleased to reassure the Senator from Arkansas that State and local election officials would not have to place an interactive computer containing voter registration information at each polling place to meet the requirements of this legislation. As my colleague from Arkansas indicated, States could meet this particular requirement if they had an interactive computer containing the States' voter registration list at each county clerk's office. I and others who crafted this language were aware that polling places in Arkansas and in many other States lack phone service and therefore it would be impractical to set up a computer network or the like at each polling location during every Federal election.

Mrs. LINCOLN. I thank my colleague for his comments. Another concern that has been brought to my attention is the funding mechanism in the Senate bill. I know my colleague from Connecticut is aware that the method through which Federal funds are distributed to State and local governments to meet the requirements in this bill is very different than the House bill. The House bill distributes Federal funding based on the proportion of eligible voters in each State. This is commonly referred to as a formula.

Conversely, the Senate bill establishes three separate discretionary grant programs to help States improve their voting systems and meet the requirements that are in this bill. I certainly support the goal of helping all States improve their voting systems. However, I also support helping all states get their fair share of federal funding. Based on my knowledge of competitive grants in other Federal programs, I am concerned about this program turning into a competition among professional grant writers. I do not think such a system helps my State nor do I believe it is good public policy when you are applying new mandates on thousands of jurisdictions in all 50 States. So I would appreciate knowing my colleague's view on how he and others who drafted this legislation envision the discretionary grant process working in practice. What if Congress only appropriates half of the funding that is authorized in this bill? Will there still be enough for all states to meet their needs, or is it first come first served?

Mr. DODD. I am certainly aware of the concerns raised by my colleague from Arkansas. I can assure my good friend and other Senators who have raised similar concerns that we have not designed a funding distribution system where only the best applications will be funded. In fact, we have carefully calculated the amount of funding we feel will be needed for all states and local jurisdictions to meet the minimum standards we have included in this legislation. Therefore, I appreciate the opportunity today to clear up any confusion surrounding

this issue by saying that I and others who crafted this bill fully intend for the Justice Department to distribute funding to all states and local governments based on the need for improvement they identify in their application.

Our intent certainly is not to enact a jobs program for professional grant writers no do we expect states or local governments to hire grant writers in order to receive Federal funding under this bill. As chairman of the Senate Rules Committee, I certainly intend to closely monitor the implementation of this legislation to ensure it is applied in practice as Congress intended. You have my word that I will be the first to object if I think the federal agency charged with distributing funding is not distributing resources to eligible recipients in a fair and equitable manner.

Mrs. LINCOLN. I thank my friend from Connecticut for his clarification on these two issues. Based on his assurance I look forward to supporting this bill.

FULL-TIME RECREATIONAL VEHICLE OWNERS

Mrs. FEINSTEIN. Mr. President, I wish to engage the chairman of the Committee on Rules and Administration, Senator DODD, in a colloquy concerning the voting rights of thousands of American citizens, many of whom are members of the Good Sam Club, which is based in California.

The citizens to whom I am referring own recreation vehicles, RVs, and live in them year round. The number of full-time "RVers" grows larger each year. These individuals, most of whom are retirees, have sold their conventional homes and travel around the country year round in their RVs and mobile homes. Ostensibly, they do not have a permanent address.

While nobody can question these individuals' right to travel, the fact is that this lifestyle does create a series of logistical problems, particularly as it relates to their ability to establish a domicile. While they may not remain at any one location, full-time RVers must still register their vehicles, maintain a current driver's license, obtain insurance, have some kind of legal address, and pay taxes. They also have, or should have, the right to register to vote if they so choose.

Two years ago, the voting rights of over 9,000 full-time RVers who were registered to vote in Polk County, TX, was challenged in court. The plaintiffs in this case argued that since these individuals did not reside in Polk County on a permanent basis, they constituted a significant voting block of "non-residents" that was likely to have an effect on the outcome of the election, and that their votes should be disallowed. Ultimately, the full-time RVers' constitutional right to vote was upheld in court, but future challenges are likely.

The legislation that we are considering today would establish an Election Administration Commission, EAC. Among other responsibilities, this

Commission is mandated to conduct a number of studies on various election issues, and report its findings to the President and Congress. Does the Senator from Connecticut agree that, at the very least, the issue of full-time RVers voting rights would be a suitable topic for the Commission to study?

Mr. DODD. Yes, I certainly agree with the Senator from California. We do not want to disenfranchise anyone, accidentally or otherwise, who is eligible to vote, and we need to address the unique set of circumstances surrounding our fellow citizens who have chosen not to live in one particular location, but rather to travel year round across our great nation. The right to vote of all full-time RVers needs to be safeguarded. Certainly this is an issue the Commission could study.

Mrs. FEINSTEIN. I thank the Senator for his remarks and for his leadership on this bill. I am pleased that he shares my strongly-held view that we need to ensure that the voting rights of all American citizens, regardless of where they reside, needs to be safeguarded.

PATH OF TRAVEL

Mr. ENZI. Mr. President, I would like to inquire of the Senator from Connecticut, Mr. DODD, on the intent of the grants to be awarded to states for the purpose of constructing "polling places, including the path of travel." Is "path of travel" intended to cover the construction of paved, asphalted, or similarly surfaced disabled or handicapped parking spaces, as well as sidewalks, ramps, and similar disabled access ways to the buildings which house the voting system?

Mr. DODD. I thank the Senator from Wyoming for his question. The grants to be awarded to states under this act would include construction of these types of infrastructure improvements, and are intended to include things like disabled parking spaces, sidewalks, ramps, and similar access ways.

Mr. ENZI. As the chairman is aware, these grants are very important to small, rural states like Wyoming, which have polling places in some very remote or rural locations. In Wyoming, we actually have some polling places in trailers on gravel roads. Because the Act requires a special voting system for the disabled to be installed in each polling place, Wyoming needs to be sure it can accommodate the disabled by making certain the state can pay for these special systems and ensure the disabled can get into the building to vote. These types of grants will ensure that the buildings which house the special voting equipment for the disabled are ADA accessible.

I am also aware the chairman has included the Collins amendment in the manager's amendment to the act. I understand this amendment is intended to assure a minimum amount of grant money is available to each state to improve their voting systems and infrastructure. This is important to the State of Wyoming so it can afford to

install these special systems and construct the infrastructure necessary to give the disabled the same opportunity to enter a voting booth and exercise their right to vote.

Mr. DODD. As the Senator has indicated, the managers' amendment includes a provision to ensure that each state will be guaranteed a minimum of one half of one percent of the grant money available under the act, which is approximately \$17.5 million dollars over five years. I am glad this act will help address the concerns of small, rural States like Wyoming, and I look forward to working with the Senator from Wyoming to address any further concerns or questions he may have on to how this act will impact rural states.

DETERRING VOTER FRAUD AND PROMOTING VOTER PARTICIPATION

Ms. CANTWELL. Mr. President, I rise to thank my colleague Senator BOND for his hard work in making sure that the identification requirements for first time voters in this bill did not have the unintended consequences for people who vote by mail. I think that we all agree that any election reform passed by the U.S. Senate should be about two things: deterring voter fraud and promoting voter participation. Many weeks of negotiations finally have produced an agreement that I believe will do both. Thanks to hard work by Senator WYDEN and Senator BOND, together with the managers of the bill, Senator DODD and Senator MCCONNELL, and Senator MURRAY and Senator SMITH, we have come up with a solution. The compromise addresses Senator BOND's concerns about making certain first time voters are who they say they are, but that doesn't have an unfair and burdensome impact on progressive states like Washington and Oregon where many—and in the case of Oregon all—voters vote by mail. This compromise will not simply benefit voters who vote by mail in Washington in Oregon, but will benefit all States that allow voters to vote by mail.

This compromise does two things. First, it creates a mechanism for election officials to verify the identity of first time voters who register by mail before they get to the polls. And second, it makes clear that voters who vote by mail, just like voters who go to the polls, can still cast a provisional or replacement ballot even if they fail to provide identification in their ballot when they cast their vote by mail. The provisional or replacement ballot will be counted as long as elections officials determine the voter's eligibility under the laws of their State.

With regard to the first part of the compromise, election officials in States like Oregon and Washington will be able to satisfy themselves about the identity of a first time voter before they arrive at the polls or cast their ballot by mail for the first time. If the election official is able to compare the information that the voter provides on his or her voter registration card with

information contained in an existing state database such as the Department of Motor Vehicles, and the information matches, the voter will not be asked to produce independent identification when they vote. In fact, even if a voter fails to provide the identification information at the time they vote, the vote may still be cast as a provisional or replacement ballot and will be counted as long as State elections officials verify the voter's eligibility under the laws of the voter's State. Is that the Senator's understanding?

Mr. WYDEN. The Senator is correct. Under the agreement you and I have worked out with Senators BOND, MCCONNELL, DODD, and MURRAY, voters who register by mail are given more options to verify their identity. Our agreement protects Oregon's vote-by-mail system, as well as the majority of voters who vote by mail in Washington, and provides protections to make sure that every mail-in vote by a legally registered first-time voter can be counted.

Instead of a identification or proof to resident, first-time voters in a state may put their driver's license number or the last four digits of their Social Security card on their registration card.

If that number, along with the name and date of birth of the voter matches another State record, like the Department of Motor Vehicle's, the voter won't be required to provide any further identification. This means they won't have to stop by a copy center before they register or before they vote. This will mean business as usual for the petition drives, the campus registrations and every get-out-the-vote effort in Oregon, where thousands of first-time voters register by mail. Without this compromise, every one of these initiatives to get more citizens voting would have been stymied.

The agreement also guarantees that voters who cast their ballots by mail have the same provisional or replacement ballot rights as voters who go to the polls. Under the agreement if a first-time voter in a state fails to supply a driver's license number or the last four digits of their Social Security number when they register, their vote can still be counted even if their ballot is received without a photocopy of identification, if the state election officials determines that the voter is in fact legally registered under state law. These provisions will also not take effect until January of 2003 ensuring that this year's election will not be disrupted by new requirements.

Under the agreement, Oregon's pioneering and successful vote-by-mail system will continue, unchanged.

I understand the concerns that sparked the identification requirement: a concern that mail-in voter registration and balloting engender fraud. But in Oregon—the only all vote-by-mail state and the state that pioneered Motor Voter—there is very little fraud. No one has come forward with proof of

widespread fraud in Oregon. In fact, I was elected to the Senate in the first all vote-by-mail special election. Senator GORDON SMITH, my opponent in that race, never raised any questions about fraud. Oregon's penalties for fraud are much tougher than federal law—up to \$100,000 in fines and/or 5 years in jail.

Since Oregonians voted overwhelmingly in 1998 to use a vote-by-mail system, participation has gone up and fraud has gone down. In fact, in the last Federal election, 80 percent of the registered voters cast a ballot. Since the May 1996 primary, 13 cases of fraud have been prosecuted; convictions were won in five and eight are still pending. In the last federal election, only 192 ballots were not counted because they failed the signature verification test. This is a pretty good record. Has the Senator had similar results in her State?

Ms. CANTWELL. I agree completely with my colleague from Oregon. The mail in voting system in my State has allowed voters to have flexibility in deciding whether to go to the polls or vote from home. In our last election, over 65 percent opted to vote by mail.

Our system has increased participation, and has resulted in no serious allegation of fraud. Like the mail in system in Oregon, I was elected in a very close election where the majority of ballots were cast by mail, but no allegations of fraud were raised.

In addition, voting by mail allows voters to be significantly more informed. By sitting at home with their ballot and their sample voting materials, voters are able to make more informed choices without the pressures of a busy schedule or a line at the booth.

I am very pleased that this agreement provides protections that will make sure that all legally registered first time voters who vote by mail, will still have their votes counted. Their votes will be counted if State election officials determine the voter is properly registered according to Washington State law. In Washington, if a first-time voter forgets to include a photocopy in their ballot, the election official will verify whether or not the voter is in fact legally registered by following the Washington state law, and performing a careful verification of the signature on the ballot.

This compromise makes sense because it allows each state to best determine how to count provisional ballots, and because it provides the same protection to mail in voters that are already provided to voters who vote at the polls in the original election reform bill.

I ask the Senator if he agrees that this is how the compromise will work?

Mr. BOND. I agree with my colleagues Senator WYDEN and Senator CANTWELL, as to how the compromise works, and I would like to thank them for working diligently on this compromise. I am pleased we were able to

make a change to the identification provision that all states can comply with.

I have said repeatedly that requiring first time voters to verify their identity is a reasonable means of preventing fraud, and in fact many States already have this requirement.

But I agree completely with the Senators from Washington and Oregon that voters who vote by mail, but fail to include a copy of their photo identification, should be able to cast a provisional ballot, just like voters who go to the polls without their identification.

By ensuring that it is a state or local election official that is making the determination about whether a provisional vote is valid, I believe we have built in significant safeguards that will prevent fraud.

I also agree that allowing election officials to verify the identity of a first time voter by matching specific information about the voter on the registration card to an existing state record with information on the voter, is a reasonable means to prevent fraud.

I am happy to support this compromise and look forward to passing the final legislation later today.

Mr. WYDEN. This agreement follows the right priorities by fighting fraud at the beginning of the process—at the time of registration. That is what our agreement does. At the same time, I have also said that legislation should not make it harder for legally registered voters to cast a ballot, or discourage people from voting. The agreement will do this as well.

This has not been an easy task. I want to commend Senators BOND, CANTWELL, MCCONNELL, and MURRAY for sticking with the negotiations, and I especially want to thank Chairman DODD for the support he and his staff have given us in reaching the agreement and in including it in the managers' package.

Mr. LIEBERMAN. Mr. President, amendment No. 2926 will ensure that the Election Administration Commission studies State recount and contest procedures, so that we lessen the chance that what happened in Florida during the November 2000 election will occur elsewhere.

That election revealed many problems in our Nation's voting procedures, the bulk of which are being addressed in this historic legislation. When states fully implement the provisions of S. 565, I am confident that Americans will have good reason to have greater confidence that their Federal elections are fair, efficient, and accurate down to the last vote.

But, we also have to be concerned about what occurs after those ballots have been cast, especially in cases when an election is excruciatingly close. In November 2000, we all found out what can happen in our electoral democracy when recounts are required or when elections are contested to determine who won and who lost. In broad terms, the system that was designed by our Founders and has evolved

over the years is a brilliant one. But given the sheer size of this country, the complexity of many State regulations, and the various ways and means of voting, we must ensure that the system we cherish is brought fully up to speed with the times in which we live.

Even after we say good riddance to chads and butterflies, we will certainly continue to have close Federal elections, and elections in which the first count has to be verified for one reason or another. Therefore I believe we will not have completed the job of election reform until we make sure that we—governments at all levels, as well as the public—better understand how States determine when votes should be recounted, how votes should be recounted, and who should do the recounting. We must not allow this window of reform to close without first enduring that we know whether or not State recount and contest procedures are adequate, so that in the future it is voters, without the intervention of the courts, who determine the winners of our elections.

In 2000, of course, it was Florida—surrounded on three sides by water and on all sides by media scrutiny—that became the poster state for recount procedures gone awry. But in frames, we must acknowledge that if other States had been placed under the same microscope as Florida, the same problems would have been revealed. Florida was not the only state that was totally unprepared to deal with a neck-and-neck election.

The National Commission on Federal Election Reform, chaired so ably by Presidents Carter and Ford, made several observations about this issue that were evident to the whole world watching events in Florida, but which could apply to many other States as well. The commission found that recount and contest laws are not designed for statewide challenges. They noted that state deadlines did not mesh well with the federal schedule. Each county in Florida made its own decisions about what, when, or whether to recount. And, perhaps most surprising to all of us involved, in performing recounts, the definition of a vote varied from county to county, and from official to official within the counties.

I do not want to recount, relieve, or rehash all of the painful debates from that election. There is no point to be served now re-enacting the legal battle that transfixed our country and the world.

But in our ongoing quest to form a more perfect union, we have to ask ourselves whether we can improve the procedures for future recounts, and how we can put in place procedures that are clear to voters, and I might add candidates, well before the election. If on the first Monday in November we are all on the same page as to what constitutes a vote on each type of voting equipment and for every kind of voting method, what recount and contest procedures are, and other critical

questions, things will be much less confusion and frustrating to all Americans come the first Tuesday in November. In perfect hindsight, I think we would all agree that it is not one's benefit for us to rely on the courts or others to tell us the rules as we go along.

The amendment would simply require the new Election Administration Commission being created by this legislation to systematically examine the State laws and procedures governing recounts and contests in Federal elections, determine the best practices, and, report to the President and Congress whether or not state procedures are adequate. The commission would also study whether or not states have adopted uniform definitions for what constitutes a vote on each kind of voting machinery they use, and whether or not there is a need for more consistency in State recount and contest procedures.

This amendment recognizes that, as is appropriate under our system of government, administration of Federal elections will still remain primarily the purview of the States. However, be directing the Election Administration Commission to study State recount and contest laws and procedures and promote best practices, I hope we can help to ensure that the events in Florida following the November 2000 election are never repeated.

I want to thank the chairman and ranking member for working with us and accepting this amendment, and I urge its adoption by the Senate.

Mrs. FEINSTEIN. Mr. President, stand on the threshold of passing perhaps the most important bill of the 107th Congress. S. 565 makes a long-overdue Federal investment in the most vital infrastructure our nation has: the infrastructure of democracy.

We have neglected this infrastructure for too long, and at our peril. Problems in Florida and elsewhere during the November 2000 Presidential election underscored the effects of our years of neglect.

I was pleased to see that President Bush's fiscal year 2003 budget request included \$400 million for a revolving fund for States for election improvements, and additional funds projected through fiscal year 2005, for a total of \$1.2 billion over 3 years. This is commendable, but I think it falls short of what we need.

S. 565 authorizes \$3.5 billion through fiscal year 2006 to help States and localities:

Meet new Federal standards for voting systems;

Replace or upgrade voting technology;

Educate and train voters, election officials, and poll workers; and

Make polling places and equipment physically accessible to the disabled.

As Senator BOND and others have said, the new standards contained in S. 565 are meant to "make it easier to vote, and harder to vote fraudulently." What a laudable goal.

Under the bill, voting systems must notify voters if they "over vote"—that is, if they vote for too many candidates for a particular office or position. Voters must be given the opportunity to change their ballot, and verify that it comports with their wishes before casting it.

Voting systems must provide non-visual accessibility for the blind and visually impaired. They must provide ballots in other languages for voters with limited proficiency in English.

The bill requires that voters be informed of their right—and be allowed—to cast provisional ballots if their eligibility is challenged at the polling place, and to find out if their votes are counted.

The bill also requires the States to develop statewide computerized and interactive voter registration lists both to make it easier to vote and to deter fraud.

To meet these requirements, S. 565 provides a 100 percent Federal match. There is no unfunded mandate here foisted on State and local governments. We give them the money they need to do what we ask them to do.

The bill comes at an absolutely crucial time for California. Last September, California Secretary of State Bill Jones "de-certified" the punch-card voting systems in nine counties, which collectively have 8.6 million registered voters. That's more people than the total populations of 39 States. The counties include:

Los Angeles (4 million registered voters);

San Diego (1 million registered voters);

San Bernardino (700,000 registered voters);

Alameda (700,000 registered voters); and

Sacramento (600,000 registered voters).

The other affected counties are Mendocino, Santa Clara, Shasta, and Solano.

Secretary of State Jones gave these jurisdictions until the November 2006 elections to upgrade their systems, presumably to "touch screen" machines, also known as "Direct Record Electronic"—DRE—devices.

You can imagine what a challenge it will be to get new systems in place for so many voters. In Los Angeles alone, the cost is expected to be between \$90 million and \$100 million. In Sacramento, it will cost \$20 million to \$30 million.

But there is more: civil rights groups and other plaintiffs sued to move the date up from 2006 to 2004. Just 2 months ago, U.S. District Judge Stephen V. Wilson ruled in favor of the plaintiffs.

So these counties have about 2 years—less really—to get new systems. It is absolutely imperative that we pass this bill, work out a compromise with the House, and get Federal funds to these—and other—jurisdictions as soon as possible.

Last month, California voters approved Proposition 41, a \$200 million

bond measure that will provide 3-to-1 matching grants to county governments for the purchase of new election equipment. So the State is doing what it can to fix this problem. But it cannot do it by itself.

With regard to the bill before us, I want to commend Senators DODD and MCCONNELL for their hard work in negotiating the compromise we will be voting on shortly. Fixing our election systems—fixing the infrastructure of our democracy—is not a partisan issue. The chairman and ranking member of the Rules Committee have done an admirable job. I am confident that the Senate will approve the compromise amendment overwhelmingly.

I am also grateful that the Senate saw fit to approve 2 of my amendments. I offered these amendments to address concerns my staff and I heard from California election officials, notably Bradley J. Clark, the Alameda County Registrar who serves as President of the California Association of Clerks and Election Officials, and Connie B. McCormack and Mischelle Townsend, the Los Angeles County and Riverside County Registrars, respectively.

My first amendment would task the Election Administration Commission—EAC—created under the bill with studying the technical feasibility of providing ballots and other election materials in eight or more languages. Section 101(a)(4) of S. 565 as amended significantly expands the Voting Rights Act—VRA—of 1965 requirement regarding the availability of voter registration and election materials in foreign languages.

The VRA currently requires the availability of voter registration and election materials in native languages for specified “language minority groups” if a certain threshold is reached: No. 1, more than 5 percent of the voting-age citizens within the jurisdiction are members of a “single language minority” and have limited English-proficiency; or No. 2, there are at least 10,000 such voters.

The VRA restricts the term “language minority groups/single language minority” to people who are American Indian, Asian American, Alaskan Natives, or of Spanish heritage.

S. 565, as amended, goes beyond the four categories above, and the registrars are concerned that it could require a larger jurisdiction like Los Angeles, San Francisco, or San Diego to prepare ballots and other election materials in languages not covered by the VRA without first assessing the need for such ballots.

We have school districts in these cities where 48 different languages are spoken.

In the November 2000 elections, Los Angeles County spent \$2.2 million out of a total budget of \$21 million to prepare registration materials and ballots in six languages: Spanish, Chinese, Japanese, Korean, Vietnamese, and Tagalog—the native language of Filipinos.

According to the Los Angeles County Registrar, Ms. McCormack, each language costs about \$250,000 per election, and she anticipates adding Cambodian for the November 2002 election.

She certainly does not want to disenfranchise any voter, nor would I countenance such an effort. But I think it is important for the EAC to study the technical challenges the multi-lingual ballot provision places on a jurisdiction like Los Angeles.

For instance, Ms. McCormack told my staff that while the technology is improving, it is still very difficult to devise ballots in “character” languages such as Chinese, even on the newer machines.

Prior to the November 2000 elections, she invited companies to bid on a contract to provide a limited number of machines with multi-lingual ballot capabilities. She drew just two bids.

Another chief concern I heard about is the requirement in Section 102(a) of the substitute amendment that appropriate election officials must notify a provisional voter in writing within 30 days if his or her provisional ballot is rejected, and the reason for it being rejected.

The goal—getting voters properly registered—is certainly worthwhile, but the requirement is administratively cumbersome for some jurisdictions. Los Angeles County, for instance, received over 100,000 provisional ballots in the November 2000 elections, and rejected close to 40,000.

In addition to notifying, in writing, those voters whose provisional ballots have not been counted, the amended bill reburies election officials in each jurisdiction to establish a “free access system” such as a toll-free number or an official Website that voters can contact to determine if their provisional ballots have been counted.

It strikes me that establishing the free access system, informing voters about it, and allowing them to find this information out for themselves is more manageable than requiring the written notification.

In either instance, I am concerned about protecting the privacy of the data that such a free access system would contain.

S. 565, as amended—Section 102(a)(6)(BN)—is silent on that point.

Identify theft is one of the Nation’s fastest growing crimes. I felt compelled to offer an amendment to the bill—which has been adopted—to direct the appropriate State or local election officials to protect the security of the personal information contained in the free access systems that will be created.

I am pleased that the Senate also adopted the amendment senators CHAFEE and REED of Rhode Island offered to ensure that State and local governments making multi-year payments for new voting equipment purchased prior to January 1, 2001 are eligible to apply for grants under this bill.

This amendment, as I understand it, “grandfathers” Riverside and Marin

Counties so that they can tap into Section 203 grant monies to help them defray the cost of equipment they purchased prior to the November 2000 elections.

According to Ms. Townsend, the Riverside County Registrar, prior to the 2000 elections, Riverside County using Pitney Bowes for financing—purchased 4,250 touch screen machines from Sequoia, an Oakland manufacturer, at a cost of \$14 million amortized over 15 years (for a total cost, including interest, of roughly \$20 million).

The new DRE system was so successful that Riverside had one of the ten lowest voter error rates of all counties nationwide—less than one percent.

Ms. Townsend told my staff that much of the error rate was attributable to paper absentee ballots. “Over-voting” is impossible on touch screens, and “under-voting” is the prerogative of individual voters and, consequently, may not represent an error.

Riverside was the first county nationwide to rely exclusively on touch screens and is serving as a model for other jurisdictions. The county was commended in the report issued by the Election Reform Commission former Presidents Ford and Carter co-chaired.

Clearly, we do not want to punish Riverside County—or Marin County, which purchased DRE touch screen machines and precinct-based optical scanners in time for the November 2000 elections—for acting responsibly.

As I said a moment ago, I want to thank Senators DODD and MCCONNELL for accommodating my concerns. I think the amendments I offered and the Chafee-Reed amendment make an already outstanding bill even better.

While much of our discussion concerning specific provisions in the bill may sound arcane or parochial, there is also something much larger at stake here.

One hundred years ago, democracy was still very much a tenuous experiment around the world. Even in the United States, African-American men were largely disenfranchised and women still had to wait for 2 more decades before they could vote.

According to a 1999 report issued by Freedom House, in 1900, only 5 percent of the world’s population had the right to elect their leader(s). Now, 58 percent of the world has this right.

In 1900, no nation elected its leader by universal adult suffrage; now, 119 nations do. That is 62 percent of all of the countries in the world.

According to the report, entitled *Democracy’s Century*:

Like economic progress, political progress has been uneven. But the general trends are hard to ignore. They reinforce the conclusion that humankind, in fits and starts, is rejecting oppression and opting for greater openness and freedom.

This report was published before the terrorist attacks on September 11. We have been reminded in a visceral way that enemies of freedom still exist. We have met those enemies on the battlefields of Afghanistan. The battle we

now wage is every bit as serious as the cold war. I fervently believe that freedom will win out. Democracy will continue its march. Respect for human rights will grow.

The newly established or emerging democracies of the world look to us for inspiration and for guidance. That is why it is so crucial that we pass S. 565 and set about mending our democracy.

I traveled abroad after the 2000 elections, and I heard an earful from foreigners. "Don't lecture us," they said, and rightfully so.

While we were able to settle on the results peacefully, in our courts, the events surrounding that election shame us, diminish us in the eyes of those who aspire to be like us, and embolden our enemies, freedom's enemies.

On April 27, 1994, 43 million black South Africans—86 percent of the eligible voters—cast their first ballots. Can any of us forget the poignant images we saw on television back then of people waiting 8 hours or more to vote, of lines of voters seemingly stretching to the horizon?

Yes, democracy is on the march. But it is fragile. We have to protect and nourish it. Even here in America—especially here in America. We are a beacon to the rest of the world, especially to oppressed people everywhere.

We Americans have been complacent and neglectful with regard to our democracy. We have allowed the infrastructure that sustains it to fray around the edges. Our democracy has lost some of its marvelous luster. It is time to restore that luster.

Mr. LIEBERMAN. Mr. President, I am pleased to rise in support of this historic election reform legislation, which of course comes before the Senate at a time when our Nation is responding to new challenges at home and abroad.

I want to thank Senators DODD and MCCONNELL and other Senators for their hard work to create this bipartisan bill, and I thank the majority leader and the minority leader for working together and ensuring that this legislation is being considered at this time. Our efforts to address this issue together demonstrate to the American people that a matter as critical as election reform can and should be driven by the national interest, not by partisan, parochial or political interests.

After all, the integrity of self-governed democracies starts with the right of citizens to vote, and when that right is not shared equally, the strength of our democracy is diminished.

We must recognize and celebrate the fact that American history has been a story of continual progress in this regard. Generation after generation, voting booths have been opened and voting rights extended to groups of citizens once disenfranchised. That wonderful process of growth has, over the generations, built a broader and better America that has become a brighter beacon of equality and opportunity to people around the world.

But we can never stop forming, in the words of our Constitution, a more perfect union, and to that end we must realize that haphazard or bureaucratic disenfranchisement still occurs in America today as a result of arcane or confusing voting systems. We must realize that millions of Americans who are eligible to vote still encounter unnecessary barriers to casting their vote, and to having their votes counted. That disenfranchisement, whenever and however it occurs, is a blemish on the sanctity of our system, and it is a blemish that only we—the democratic representatives of the people—can help to heal.

The provisions in this legislation will help guarantee access and accuracy in the voting booth and ballot box by making sure that the fundamental right to vote of all citizens is protected, that the ballots of all registered voters are counted, and that only those persons who are eligible to vote can do so.

We can all agree that the November 2000 election—which I seem to recall reading a thing or two about in the newspapers—exposed serious flaws in our federal election process, and I am happy to say that this legislation has an answer for most of the flaws exposed.

Experts estimate that in November 2000, some 2.5 million Americans had their ballots for President discarded for any number of reasons. In some cases, the cause was faulty voting equipment, in others confusing ballots. This legislation will wisely require States to adopt voting systems which permit voters to verify their ballot choices and correct errors before their vote is cast. It requires states to adopt systems that address the needs of disabled voters, and of voters with limited English proficiency. And to make sure that these provisions have teeth, the bill sets Federal standards for voter error rates and requires states to meet or beat those benchmarks.

In the 2000 election, many citizens who believed they were eligible to vote were simply turned away from the polls. This legislation will make sure that all citizens who show up to vote have the right to cast provisional ballots, so that their votes can be tabulated if and when their eligibility is verified.

According to reports, in the 2000 election, other citizens were denied the right to vote because registration lists were simply not accurate. This legislation will require each State to create computerized, statewide voter registration lists and to coordinate those lists with other databases to ensure that the lists are as up-to-date and as error-free as possible.

The November 2000 election also made it painfully clear that states were being forced to bear the total financial burden for federal elections, and many states lacked the funding necessary to implement more efficient voting systems. This legislation au-

thorizes \$3.5 billion to help states and localities meet the requirements for upgrading voting systems, to improve accessibility for disabled and special needs voters, and to implement new procedures to increase voter turnout, educate voters, and identify, deter, and investigate voter fraud.

Mr. President, the revolutionary idea at the core of American democracy is that our government's power is derived from the consent of the governed. In other words, small-r republican government depends upon the small-d democratic right to vote. Two hundred years ago, Thomas Jefferson wrote, "The will of the people . . . is the only legitimate foundation of any government, and to protect is free expression should be our first object."

Today, the best way for us to protect the free expression of the will of the people is to build an election system that all Americans can count on, by ensuring that all their votes and only their votes are counted. This legislation furthers our progress toward that noble goal. It deserves our strong support.

Mr. GRASSLEY. Mr. President, we have before us a bill that seeks to take unprecedented steps to improve the methods by which Americans vote for our elected officials. To a large extent, Congress is charting new territory in an area where States have traditionally been left to their own devices. Congress has in the past stepped in to guarantee the right to vote for American military personnel and U.S. citizens who live abroad as well as to protect the voting rights of Americans against discrimination. Most recently, Congress has involved itself in the area of voter registration with the National Voter Registration Act of 1993. However, the Federal Government to date has had little or no role with respect to the administration of elections, which is traditionally a State and local responsibility.

Since this is new territory for Congress, we must start by asking ourselves what we are trying to accomplish. The closeness of the 2000 presidential election highlighted some of the shortcomings in the voting systems and processes that are used throughout the country. Many suggestions have been tossed around for ways we can improve elections in the United States ranging from radical constitutional reforms to minor adjustments on the local level. It is clear to me that the most important role Congress can play is to provide the resources, both financial and technical, that are necessary for states and communities to administer fair and accurate elections.

The Dodd-McConnell compromise legislation being considered by the Senate takes steps to help State and local governments achieve high standards of fairness and accuracy in elections. Still, the bill is not perfect. Because of the nature of compromise legislation, every Senator can find things they like and things they do not.

Nevertheless, this bill does accomplish one of the key objectives of Federal election reform. Central to any attempt to help States and localities improve their election systems is providing funds to do so. It's usually not lack of will but lack of funds that hinders local reform efforts. I'm pleased that this bill provides a total of \$3.5 billion to States and localities to help improve the administration of elections. Funds will become available through a newly created Election Administration Commission for items like upgrading or replacing voting machines, improving accessibility for disabled voters, and simplifying voting and voter registration procedures.

On the other hand, one problem with this bill is the degree of Federal control that will be exerted on elections. It's difficult to strike the right balance between helping States and localities improve the administration of elections while still allowing for local flexibility. This bill contains a number of well intentioned but specific mandates on States and localities along with potentially heavy handed enforcement procedures if they are deemed to be out of compliance with Federal mandates. Still, the bill does provide for 100 percent funding for all Federal mandates thus lessening the impact on the State and local governments that must implement these mandates.

Finally, I'm pleased that measures were included in this bill, largely through the work of Senator BOND, to combat the problem of voter fraud. The Dodd-McConnell compromise strengthens language in current law providing penalties for giving false information with respect to voting or voter registration, or for conspiring to do so. It also clarifies that these penalties apply for giving false information with respect to naturalization, citizenship, or alien registration.

The compromise also contains carefully balanced language designed to protect against the kinds of fraud that can occur with mail-in voter registration and mail-in voting. While efforts to strip out these anti-fraud protections threatened to unravel the compromise, I am pleased that this matter was resolved and a compromise was found that protects the ability to vote by mail without weakening the bill's anti-fraud protections.

In addition, other measures have been added to the bill through amendments on the Senate floor to give States more tools to ensure the integrity of their voter lists and prevent fraud, including my amendment to allow for coordination of statewide voter lists with social security records to check for deaths and individuals registered under false identities. Voter fraud is a direct threat to the electoral process and these measures represent progress toward eliminating that threat.

At the end of the day, we have a bipartisan bill that takes concrete steps to help state and local governments

improve the administration of elections. While it isn't perfect, the Dodd-McConnell legislation represents a positive move that should give Americans greater confidence in their elections and our system of government.

Mr. DOMENICI. Mr. President, I rise today to speak about Election Reform. Today is a good day for this country and the manner in which we hold federal elections.

For several weeks after the last vote was cast in the 2000 elections, Americans were inundated with image after image of ballots being counted and recounted. As the election was further scrutinized, numerous stories of voter fraud were brought to the nation's attention.

While the list of problems encountered during the last election is seemingly unending, the point is that there are improvements to the system that must be made. Today, we have taken a very big, very important step in making sure that this system works better. After all, we have no more important right as American citizens than the right to vote.

In this bill, we set forth some very important standards and procedures to protect this right. We will require systems to permit a voter to verify his ballot choices and correct errors before the ballot is cast so that the voter can be certain that his vote will be for the candidate of his choice.

In the case where an individual claims to be a registered voter who is eligible to vote but isn't on the official registration list, that individual will be allowed to cast a provisional vote. The appropriate election official must then verify the claim of eligibility. If the claim is verified, that vote will be counted. There will then be a free access system that the voter can use to check to see whether that vote was counted, and if not, the system will give the reason for that decision.

These measures, and others in the bill, are intended to make certain that the people who are eligible to vote are given that right. The other side of the coin is to make certain that people who are not eligible to vote are prevented from voting. One of the things that this bill does is require each state to implement an interactive, computerized, statewide, voter registration list. This will also help to make certain that no one is able to vote more than once.

One of the concerns that many states would have had with this piece of legislation is the cost involved in implementing these reforms. Recognizing these concerns, we have authorized \$3.5 billion to make certain that the states do not bear the burden of these reforms.

This legislation represents the hard work of many members from both sides of the aisle. It is truly a testament to the good that can come from bipartisanship and I commend all of the Senators who worked so hard to make this happen.

Mr. ROCKEFELLER. Mr. President, I thank Chairman DODD and Ranking Member MCCONNELL for working closely with me to reach agreement on an amendment to help ensure that the millions of Americans living overseas can vote in Federal elections.

Millions of Americans live abroad. Some are business people, some are military personnel, others are students, and some are Peace Corp volunteers. Their votes should count, too.

This amendment is simple and reasonable, but important. It directs the Commission created in the Election Reform package to consider the needs and concerns of millions of overseas voters, both civilian and military personnel. The amendment directs the commission to study the issue of long-term registration for overseas voters and make recommendations. It would create a single office in every state that overseas voters could contact for information about voter registration and absentee ballots. The Commission is asked to determine if this office could, and should do more. It states that when election officials reject an absentee ballot, the overseas voter should be notified and given an explanation on why their application was rejected. Finally, this amendment also ask states to report on the number of absentee ballots, within a reasonable time frame.

Early in my political career, I served as the Secretary of State for West Virginia, so I understand the importance of voting issues and the need to be sensitive to the concerns of states. But we also have an obligation to overseas Americans who deserve the chance to vote.

I deeply appreciate the interest and support of Chairman DODD, Senator MCCONNELL and their staffs. I know that the bipartisan House Election Reform legislation includes important provisions for overseas voters, both civilian and military, recognizing that they, too, deserve to vote.

Mr. MCCAIN. Mr. President, this afternoon I would like to commend my colleagues for passing S. 565, the Martin Luther King, Jr. Equal Protection of Voting Rights Act of 2001. I believe that this historic piece of legislation will resolve many of the problems that the country experienced in the Year 2000 election.

This bill includes a number of important elements that are designed to improve and safeguard the voting process across the country. The bill establishes uniform and nondiscriminatory Federal standards, including voter notification procedures and a uniform error rate for voting systems, that will reassure voters that their votes will be correctly registered. The bill also includes mandatory procedures for provisional voting that will ensure that all legitimate voters have the right to vote. Additionally, the bill establishes an interactive, computerized, statewide voter registration system that will prevent future incidents of election fraud. The

bill also includes Federal grant programs that will help the States pay for these new mandatory requirements, and provide incentives for States to replace voting machines, educate voters, and train poll workers. The bill also establishes an Election Administration Commission to improve the administration of elections across the country by using grant programs, studies, and recommendations.

Most importantly, this bill will play a role in improving the situation for disabled voters. The obstacles facing millions of disabled voters have concerned me long before the 2000 elections. I find it particularly distressing that many of our nation's disabled veterans, who sacrificed so much for our country, are confronted with too many obstacles, including inaccessible polling places and machines that cannot be used by blind and visually impaired voters. According to a 2001 GAO report, requested by Senator HARKIN and me, 84 percent of all polling places in the U.S. are not accessible to disabled voters. Additionally, no polling place visited by the GAO had a ballot or voting system available for blind or visually-impaired voters to mark a ballot without requiring assistance from a poll worker or companion.

I would like to thank my colleagues in the Senate for supporting my amendment to ensure that the Federal Access Board will be consulted on the new voting systems standards. The Access Board has a good deal of insight and experience in solving the accessibility issues facing voters with disabilities. I am also grateful to my colleagues for accepting Senator HARKIN's amendment, which I cosponsored, to make it the Sense of the Senate that "curbside voting" should be allowed by states only as a last resort. For many disabled voters, "curbside voting" strips away their sacred right to cast a private ballot. It is my hope that these amendments, combined with the \$100 million grant program to improve the accessibility of polling places and the new voting systems standards, will ensure that the disabled community and our Nation's veterans will become more involved in our Nation's election process.

One major issue for the Senate was how to strike a balance between preventing voter fraud and ensuring greater participation by legitimate voters. The compromise substitute amendment included provisions that would both include mandatory Federal standards to make the election process easier for legitimate voters and prevent voter fraud. I cosponsored this amendment, because it struck the necessary bipartisan compromise that was required to ensure the passage of election reform legislation.

I voted against the Schumer-Wyden amendment and against two cloture motions regarding this amendment, because I believed that it would destroy this bipartisan compromise. The issue of election reform is so important that

it requires broad bipartisan support, as was achieved in the House of Representatives with the Ney-Hoyer bill. While I understand the intentions of the proponents of the Schumer-Wyden amendment, I was concerned that this amendment would strip out the anti-fraud provisions of the compromise, and endanger passage of this bill. My hope was that this impasse would force the parties to work together to achieve meaningful election reform legislation. I am glad that Senators WYDEN and BOND were able to work together to resolve this obstacle, and that we are now voting on final passage of this bill.

Again, I would like to congratulate my colleagues on passing this legislation. It is my hope that the House-Senate Conference on this bill can be resolved soon. We owe it to the American people to ensure that they have fair, open, and accurate elections.

Mr. DASCHLE. Mr. President, I thank the distinguished chairman and ranking member of the Rules Committee, Senators DODD and MCCONNELL, for their incredible leadership, perseverance and hard work in getting us a strong bipartisan election reform bill.

I also thank Senators SCHUMER, BOND, TORRICELLI, MCCAIN and DURBIN for their tireless efforts in crafting this bipartisan substitute amendment. Without their collaboration and compromise, we would not even be considering, let alone passing, this very important piece of legislation.

It has been several months since we first began floor consideration of this bill, and I appreciate the tireless efforts, and diligence that Senator DODD has maintained. Without his leadership we would not be here today.

By working together, our colleagues have produced legislation that will protect the most basic of all American rights: the right to vote, and to have that vote counted.

This bill represents a fair, balanced, and responsible approach.

It will ensure that nondiscriminatory voting procedures exist in every polling place, while strengthening the integrity of the Federal election process.

We all know why this bill is necessary.

We remember the stories from the 2000 elections about: inadequate voter education; confusing ballots; outdated and unreliable voting machines; poll workers who were unable to assist voters who needed assistance because they were overwhelmed or undertrained, or both; and registered voters who were wrongly denied the right to vote, because their English was less than perfect, their name was mistakenly purged from a registration list, or some other equally unacceptable reason.

We heard reports of police roadblocks and other barriers that prevented some voters from even reaching the polls, not in the 1920s or 30s, or even the 1960s, but in 2000.

Today, we are celebrating the 34th anniversary of the 1968 Civil Rights

Act, which prohibited discrimination in the sale, rental, or financing of housing.

In every generation, we have tried to tear down barriers to full participation in the life of this Nation.

But there is one means of participation that forms the foundation of every other: the right to vote.

And that is why we cannot allow those barriers to voting, physical or otherwise, which so tainted our democracy in the last century, to stretch into this one.

In all, it is estimated that between 4 million and 6 million Americans were unable to cast a vote, or did not have their vote counted, in the 2000 elections.

Between 4 and 6 million Americans, disenfranchised. In this day and age, that is simply unacceptable.

It is not enough for Congress to document or decry the problems we saw in the last election. We need to fix the problems before the next election.

It should not matter where you live, what color your skin is, or who you vote for. In America, the right to vote must never be compromised. Too many people have given too much to defend that right.

Our system leaves it to States to decide the mechanics of election procedures.

But the right to vote is not a State right. It is a constitutional guarantee. And it is up to us to see that it is protected.

Not all States experienced problems with voting in the last election. And some States that did have problems have taken steps to rectify them, and they are to be commended for that.

But there are still States, nearly 17 months after the 2000 elections, where equal access to the voting booth is not guaranteed. It is time for this Congress to step in and enact basic standards, to ensure that every American who is eligible to vote can vote.

That is what this bill does.

It requires States to ensure that their voting equipment meets minimum Federal standards for accuracy.

It says that voters who cast "overvotes" must be notified, and given a chance to correct their ballot.

It ensures that voting machines are accessible to individuals with disabilities, as well as those with limited English proficiency.

It establishes statewide computerized voter registration lists.

And it allows individuals whose names don't appear on voting lists to cast "provisional" ballots.

If it is determined that the person's name was left off the registration list mistakenly, the vote will then be counted. This will prevent voters from having to wait hours at the polls, or not vote at all, simply because of someone else's clerical mistake.

These are not onerous requirements, and they are not unfunded mandates. This bill includes \$3.5 billion for States, to help them upgrade their voting systems. And it establishes a new,

bipartisan commission to oversee the grant program and administer voting system standards.

I commend my colleagues, particularly the sponsors of this bill, for bringing us such a fair and balanced proposal. And for committing their time and energy to seeing this through.

I am hopeful that this bill will move through conference quickly so we can implement these reforms as soon as possible.

If people are denied their right to vote on issues that affect them directly, or if they fear their votes are not counted, democracy itself is threatened. If that happens, both parties, and all Americans, lose. This bill will go a long way in restoring the integrity of our system and ensuring that all Americans will be truly able to exercise their right to vote.

Voting is the most basic right in our democracy, the one that guarantees the preservation of all other rights against governmental tyranny.

Let us now pass this bill and protect that most basic right.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, how much time remains?

The PRESIDING OFFICER. Nine minutes.

Mr. DODD. How much on the Republican side?

The PRESIDING OFFICER. Almost 4 minutes.

Mr. DODD. Almost 4 minutes.

Mr. President, why don't I yield myself 5 minutes, and then the Senator from Kentucky may want to speak for 1 minute, and then we will just move on to the amendments.

Mr. President, first of all, I explained the order of the votes that will occur.

I express my thanks to Senator DASCHLE and his staff and to Senator LOTT and his staff. I know I probably tried the patience of all the staffs of both sides over the last number of weeks as we moved this product forward to get to the point where we are today. I would not want to leave this debate without expressing publicly my sincere gratitude to both the Democratic and Republican floor staffs and the cloakroom staffs for their expression of patience—I say that diplomatically—over the last number of weeks.

Secondly, I express my gratitude to my colleagues in the other body who have worked very hard on this as well. JOHN CONYERS from Michigan is my principal co-author, if you will, of this proposal on the House side, along with my colleagues here, although Congressman NEY and Congressman HOYER also have a very important bill they passed in the House, and we will be working with them.

EDDIE BERNICE JOHNSON, SILVESTRE REYES, the respective heads of the Black Caucus and Hispanic Caucus, as well as friends from the AFL-CIO, worked hard on this.

The Leadership Conference on Civil Rights—I will have printed in the

RECORD the respective members of the Leadership Conference; it is a lengthy list—but I express my gratitude to them as well for their efforts.

I join my colleague, Senator MITCH MCCONNELL, in expressing our gratitude to the members of our committee, Senator SCHUMER and Senator TORRICELLI, who worked diligently to bring us to this point. I also want to join the Ranking Member in thanking our colleagues who are not part of the committee. I say to Senator BOND, I really meant what I said last evening. I think—I say to my colleague through the Chair—but for the provisions you added, which are the antifraud provisions, I think this bill would be a far weaker bill, and I am not sure we would even have gotten a bill. So while not a member of the Rules Committee, I know Senator MCCONNELL and I are deeply appreciative of your contribution to this effort.

Senator WYDEN and Senator CANTWELL worked through the Oregon and Washington issue with their respective colleagues. GORDON SMITH was very concerned about this; PATTY MURRAY as well. We thank them for their efforts.

The staffs of our respective offices—Shawn Maher, Kennie Gill and Ronnie Gilliespie, and Carole Blessington, Sue Wright, and Jennifer Cusick who supported them as well—I thank them for their work. I also thank Tam Somerville, Brian Lewis, and Leon Sequeira of Senator MCCONNELL's staff; Julie Dammann and Jack Bartling of Senator BOND's staff; Sharon Levin and Polly Trottenberg of Senator SCHUMER's staff; Sara Wills of Senator TORRICELLI's staff; Carol Grunberg of Senator WYDEN's staff; and Beth Stein of Senator CANTWELL's staff. I thank them for their terrific work. If I have left anyone out, I will add their names before the RECORD is closed today.

I said this before, but Senator MCCONNELL and I are of different political parties. We share the distinction of having gone to the same law school. We represent the alumni association of the University of Louisville. We share that point in common.

I wish to tell him how much I appreciate his efforts. I know he has a lot of things going on. He has had a huge battle on campaign finance reform that occurred in the middle of all of this. The fact that he and his staff would find time to help us work through this election reform bill is something for which I will always be grateful to him. I know I was hounding him. I know I bothered Brian and Jack and others to get this done. And they showed patience, as well, to me and my staff. I am really grateful to them for their help on that.

Lastly—it has been said by others—I know we have a lot of important bills we deal with. We have the energy bill we are considering. We have appropriations bills. And we are dealing with homeland security and terrorism issues.

I do not minimize at all the importance of that. But this bill goes beyond any specific current issue—it goes to the heart of who and what we are as Americans. Aside from the obvious results of the 2000 elections which provoked, I suppose, this discussion and this bill—this effort is not about addressing a single issue or event. We are dealing with the underlying structure of our very Government.

Patrick Henry once said that: The right to vote is the right upon which all other rights depend. The idea that by this legislation we make it easier to vote in this country and more difficult to scam the system is not an insignificant contribution. It may not get the notoriety of other provisions, but the fact that we are proposing to spend \$3.5 billion of taxpayer money on our elections system to allow States to improve equipment, to allow people who are disabled, blind to be able to cast a ballot in private and independently—the idea that we are going to have statewide voter registration lists, provisional balloting, these are major, major changes in the law. In addition this bill provides for the establishment of the independent commission on elections, as well as, of course, the anti-fraud provisions.

I have been proud of a lot of things with which I have been involved in my 22 years. Nothing exceeds the sense of pride I have this morning, as we close out the debate, on this bill and this Senate accomplishment.

Mr. DODD. Mr. President, today is an historic day in the Senate marked by passage of S. 565, the Martin Luther King, Jr. Equal Protection of Voting Rights Act. It has been my great honor and privilege to have served as Chairman of the Rules and Administration Committee during the pendency of this legislative effort and to have served as floor manager during the Senate consideration.

This is landmark legislation. By enacting this bipartisan bill, the Senate will have established the authority, and responsibility, of Congress to regulate the administration of Federal elections, both in terms of assuring that voting systems and procedures are uniform and nondiscriminatory for all Americans and in ensuring the integrity of federal election results. The House has already passed similar legislation and I am confident that a House-Senate conference can act expeditiously to send this measure to the White House.

While we should not underestimate the significance of this action, we have been careful not to overstate the federal role in the administration of Federal elections. This legislation does not replace the historic role of state and local election officials, nor does it create a one-size-fits-all approach to balloting.

It does establish minimum Federal requirements for the conduct of Federal elections to ensure that the most fundamental of rights in a democracy—

the right to vote and have that vote counted—is secure.

In *Bush v. Gore*, the Supreme Court condemned a recount process that was “. . . inconsistent with the minimum procedures necessary to protect the fundamental right of each voter . . .”

The basic equal protection doctrine underlying the majority opinion in *Bush v. Gore* is consistent with the principle of equal weight accorded to each vote and equal dignity owed to each voter. The Court stated in pertinent part:

The right to vote is protected in more than the initial allocation of the franchise. Equal protection applies as well to the manner of its exercise. Having once granted the right to vote on equal terms, the state may not, by later arbitrary and disparate treatment, value one person's vote over that of another.

This legislation ensures that every eligible American voter is assured of such minimum procedures. Only then can we be sure that every eligible American citizen has an equal opportunity to cast a vote and have that vote counted, so that the integrity of the results of our Federal elections remains unchallenged. That is the minimum that a Federal legislature should do to ensure the vitality of its democracy.

This journey to secure our democratic system of government began when the presidential November 2000 general election exposed to the citizens of this Nation, and the people of the entire world, the inadequacies of our Federal elections system. Throughout the last fifteen months of Congressional review, hearings, and legislative consideration, the efforts of this Senator have been guided by the words of Thomas Paine who described the right to vote as the “primary right by which other rights are protected.” I would suggest that those are the words that should guide the consideration and review of this legislative effort.

The bipartisan compromise being adopted by the Senate today is the culmination of several months of work by a dedicated group of our colleagues with strongly held and diverse views on how best to improve our system of Federal elections. The compromise is just that—it is not everything that all of us wanted, but it is something that everyone wanted. And the more than 40 amendments adopted during the debate have further improved the measure. Clearly, in the case of this legislation, the ability of the Senate to freely work its will through amendment and debate has produced a superior product.

This bill is the culmination of efforts begun by the distinguished ranking member, Senator MCCONNELL, in the fall of 2000, as then-Chairman of the Senate Rules Committee.

Shortly after the November 2000 general election, then-Chairman MCCONNELL announced a series of hearings on election reform. Under his leadership, the Committee held an initial hearing on March 14, 2001.

After the leadership of the Senate changed on June 6, 2001, I announced that election reform would continue to be the primary legislative priority of the Committee. As a result, the Rules Committee held an additional three days of hearings last year on election reform, including an unprecedented, and enlightening, field hearing in Atlanta, Georgia on July 23.

The Committee received testimony and written statements from a conglomeration of civil rights organizations, Congressional House members and caucuses, State and local election officials, study commissions, election associations, task forces, academics, and average voters.

But it was the field hearing in Atlanta that underscored this Senator's belief that this issue is not about what happened in one State or in one election. Election reform is about the systemic flaws in our Federal election system that we have long neglected—flaws which the problems in Florida in November 2000 simply brought to our nation's attention.

Prior to the Atlanta hearing, the chief election official of the State of Georgia, Cathy Cox, testified to her experience. In her words:

As the presidential election drama unfolded in Florida last November, one thought was foremost in my mind: there but for the grace of God go I. Because the thought is, if the presidential margin had been razor thin in Georgia and if our election systems had undergone the same microscopic scrutiny that Florida endured, we would have fared no better. In many respects, we might have fared even worse.

Ms. Cox testified before the Rules Committee at its field hearing in Atlanta, hosted by my good friend, the Senator from Georgia, Senator MAX CLELAND. Ms. Cox reflected what many of our state and local election officials believe—it could have been any State in the media spotlight that year—any state where the election was close.

In fact, according to the Caltech-MIT report, other States, including Georgia, Idaho, Illinois, South Carolina, and Wyoming, and other cities, such as Chicago and New York, had higher rates of spoiled and uncounted ballots than Florida. Nor were these problems limited to just the November presidential election.

The shortcomings in our election process have existed in many elections in States across this Nation. The Caltech-MIT report found that there have been approximately 2 million uncounted, unmarked or spoiled ballots in each of the last four presidential elections. During hearings before the Senate Rules Committee last year, Carolyn Jefferson-Jenkins, President of the League of Women Voters, testified that:

. . . [t]he kinds of problems that we saw in 2000 are not unusual. They represent the harvest from years of indifference that has been shown toward one of the most fundamental and important elements in our democratic system.

This concern was confirmed by the General Accounting Office, GAO, which

conducted several comprehensive studies on the administration of elections. GAO found that 57 percent of voting jurisdictions nationwide experienced major problems conducting the November 2000 elections.

Following the Rules Committee hearings, the Committee met on August 2 and voted to order reported S. 565, the Equal Protection of Voting Rights Act. Shortly thereafter, I approached Senator BOND and Senator MCCONNELL and suggested that we attempt to find a bipartisan way to approach election reform. We were joined by Senator SCHUMER and Senator TORRICELLI and began meeting to craft a bipartisan compromise that could be enacted prior to the completion of this Congress.

Each of my colleagues brought a unique perspective to the table. Senator MCCONNELL has been steadfast in his pursuit of a new, bipartisan agency to ensure the continuing partnership between the Federal, State and local governments in Federal elections.

Senator BOND's long-standing interest in ensuring the integrity of Federal elections is reflected in the anti-fraud provisions contained in this compromise. Senator SCHUMER and Senator TORRICELLI were among the first members of the Rules Committee to introduce bipartisan reform measures, and their commitment to the bipartisan process is evident throughout this compromise.

I am grateful to all of them, and to their very talented staff, for the time and dedication that each one committed to ensuring that a bipartisan solution could be presented to the Senate.

Throughout this process, all of us were committed to seeing meaningful reform enacted. All of us were convinced that real reform had to make it easier to vote but harder to defraud the system.

These twin goals—making it easier to vote and harder to corrupt our Federal elections system—underpin every provision of this compromise. These goals are fundamental to ensuring that not only does every eligible American have an equal opportunity to vote and have that vote counted, but that the integrity of the results is unquestioned.

Nothing in this legislation, and no words spoken by this Senator in this debate, should be construed to call into question the results of the November 2000 elections. This effort is not about assessing whether a particular candidate was legitimately elected. The fact that Congress may ultimately enact minimum Federal requirements for the conduct of Federal elections should not imply that prior elections conducted inconsistently with such requirements are somehow less legitimate.

But what we cannot fail to recognize is that the mere closeness of the presidential election in November 2000 tested our system of Federal elections to its limits and exposed both its strengths and its failures.

To underscore the uniqueness of the November 2000 general election, the Carter-Ford National Commission on Federal Election Reform observed, and I quote in pertinent part:

In 2000 the American electoral system was tested by a political ordeal unlike any in living memory. From November 7 until December 12 the outcome of the presidential election was fought out in bitter political and legal struggles that ranged throughout the state of Florida and ultimately extended to the Supreme Court of the United States. Not since 1876-77 has the outcome of a national election remained so unsettled, for so long. The nineteenth century political crisis brought the United States close to a renewal of civil war. Fortunately, no danger of armed conflict shadowed the country in this more recent crisis. The American political system proved its resilience. Nonetheless, the . . . election shook American faith in the legitimacy of the democratic process. . . . [I]n the electoral crisis of 2000 . . . the ordinary institutions of election administration in the United States, and specifically in Florida, just could not readily cope with an extremely close election.

The legitimacy of our democratic process was called into question by a close election because some Americans—be they people of color, or language minority, or disability, or lesser economic condition—believed that the voting system they used, or the administrative processes they encountered, did not provide them an equal opportunity to cast their vote and have that vote counted.

The U.S. Commission on Civil Rights conducted an extensive study on voting irregularities that occurred in Florida during the 2000 presidential election. The Commission found that African-Americans were nearly 10 times more likely than white voters to have their ballots rejected. The Commission found that poorer counties, particularly those with large minority populations, were more likely to use voting systems with higher spoilage rates than more affluent counties with significant white populations.

Additionally, an independent review of Florida's election systems conducted by members of the media found that, quoting from the New York Times and Washington Post:

Black precincts had more than three times as many rejected ballots as white precincts in [the November 2000] presidential race in Florida, a disparity that persists even after accounting for the effects of income, education and bad ballot design . . . [s]imilar patterns were found in Hispanic precincts and places with large elderly populations.

Again, this problem was not limited to Florida. The Committee also heard testimony at the Atlanta hearing that nearly half of all black voters in Georgia used the "least reliable equipment," while less than 25 percent of white voters used that same equipment.

Election reform is clearly the first civil rights battle of the 21st century. As Congresswoman MAXINE WATERS, Chairperson of the Democratic Caucus Special Committee on Election Reform, has stated, "there is no question, that the right to vote is the most im-

portant civil rights issue facing our Nation today." The Committee heard testimony to this effect at the Atlanta field hearing from Reverend Dr. Joseph E. Lowery, Chairman of the Georgia Coalition for the People's Agenda. Reverend Doctor Lowery testified that:

No aspect of democracy is more sacred than the right to vote and to have those votes counted. In 1965, thousands of us marched from Selma to Montgomery to urge this nation to remove any and all barriers based on race and color and ethnicity related to the right to vote. . . . Dr. King could not have anticipated that once we secured the ballot in 1965, that we would be back here in 2001 demanding that our government now assure us that our votes are fairly and accurately counted.

And we must ensure that all Americans have an equal opportunity to have their votes counted.

That is why this Senate, and this Congress, and this President, cannot squander this opportunity to reinforce the strengths and correct the failures in our system of Federal elections. To fail to act would be nothing less than an abdication of our collective obligations.

Luckily, unlike many other challenges that are presented to the U.S. Congress, the vast majority of flaws in our federal election system are eminently fixable. As the Carter-Ford Commission found, "the weaknesses in election administration are, to a very great degree, problems that government can actually solve."

Further, the Rules Committee found remarkable consensus regarding the problems that exist with our Federal election systems and the statutory changes that need to be made in response. The distinguished Ranking Member, Senator MCCONNELL, noted during one of our hearings that the message to Congress was unanimous: "Congress must act, and act soon, to come to the aid of states and localities."

And such cannot be accomplished in a partisan manner. Only through a bipartisan effort to assess and support the strengths and identify and correct the failures can we achieve meaningful, and lasting, election reform.

I submit to my colleagues that the provisions of the bipartisan substitute we are voting on today are intended to accomplish just that.

The principle behind our approach is very simple. The Federal Government has an obligation to provide leadership, both in terms of establishing minimum Federal requirements for the conduct of Federal elections and in terms of providing financial resources to State and local governments to meet those minimum requirements.

For too long leadership at the federal level has been lacking. After the elections of November 2000, Congress can no longer afford to ignore our obligation to the States to be an equal partner in the administration of the elections that choose our national leadership.

The provisions of this bipartisan compromise attempt to meet our obli-

gation by establishing minimum Federal requirements—not a one-size-fits-all solution—but broad standards that can be met in different ways by every balloting system used in America today. And this bipartisan compromise provides the necessary resources to fully fund these requirements in every one of the 186,000 polling places across this Nation.

Let me first give my colleagues a broad overview of what the bill we are about to adopt does and then go through each section to more fully explain how the provisions will work.

The compromise bill, as improved by amendments adopted during Senate debate, establishes three Federal minimum requirements for Federal elections that will affect voting systems, including machines and ballots, and the administration of Federal elections. These three requirements touch the very voting systems and administrative procedures that alienated Americans across this Nation in November of 2000 and called into question the integrity of the final election results.

The first requirement sets minimum Federal standards that voting systems and election technology must meet by the federal elections of 2006. Essentially, these common sense standards are designed to provide notice and a second-chance voting opportunity for all eligible voters, including the disabled, the blind and language minorities, in case the voter's ballot was incorrectly marked or spoiled.

This requirement conforms to important recommendations from the Caltech-MIT and Carter-Ford Commission reports. As the Carter-Ford report stated, we must " . . . seek to ensure that every qualified citizen has an equal opportunity to vote and that every individual's vote is equally effective."

The Carter-Ford report specifically recommended that the Federal Government develop a comprehensive set of voting equipment system standards. The Commission also took great pains to encourage the use of technology and election systems that ensure the voting rights of all citizens, including language minorities. Similarly, the Caltech-MIT report emphasized the importance of equipment that allows voters to fix their mistakes, provides for an audit trail, and is accessible to the disabled and language minorities.

The second requirement provides that all voters be given a chance to cast a provisional ballot if for some reason his or her name is not included on the registration list or the voter's eligibility to vote is otherwise challenged.

Almost every organization that has examined election problems has recommended the adoption of provisional

voting, including, but not limited to the: National Association for the Advancement of Colored People (NAACP); National Commission on Federal Election Reform (Carter-Ford Commission); National Association of Secretaries of State (NASS); National Association of State Election Directors (NASED); National Task Force on Election Reform; Democratic Caucus Special Committee on Election Reform; Caltech-MIT Voting Technology Project; Constitution Project; League of Women Voters (LWV); American Association of Persons with Disabilities (AAPD); Leadership Conference on Civil Rights (LCCR); National Council of La Raza (NCLR); Asian American Legal Defense and Education Fund (AALDEF); U.S. Commission on Civil Rights; and Federal Election Commission.

The Caltech-MIT report estimates that the aggressive use of provisional ballots could cut the lost votes due to registration problems in half. The Carter-Ford Commission recommended going even farther than the compromise. The Commission noted, "No American qualified to vote anywhere in her or his State should be turned away from a polling place in that State."

According to a survey by the Congressional Research Service, at least 15 States and the District of Columbia have a provisional ballot statute; 17 States have statutes that provide for some aspects of a provisional balloting process; and 18 States have no provisional ballot statute but have related provisions. For example, five of these States have same-day voter registration procedures and at least one State, North Dakota, does not require any voter registration.

Studies by GAO confirm that over three-quarters of the jurisdictions nationwide had at least one procedure in place to help resolve eligibility questions for voters whose name does not appear on the registration list at the polling place. However, the procedures and instructions developed to permit provisional voting differed across jurisdictions.

Provisional voting, as defined under the bipartisan compromise, would avoid situations like the one recounted to the Democratic Caucus Special Committee on Election Reform by two citizens living in Philadelphia, Juan Ramos and Petricio Morales.

They testified that in Philadelphia, voters whose names did not appear on the precinct roster were forced to travel to police stations and go before a judge, who would then determine whether or not they had the right to vote. Not surprisingly, many voters whose names were missing from the list wound up not voting rather than face these intimidating logistical hurdles.

If an individual is motivated enough to go to the polls and sign an affidavit that he or she is eligible to vote in that election, then the system ought to protect that individual's right to cast a ballot, even if only a provisional bal-

lot. And that right is so fundamental, as is evidenced by its widespread use across this Nation, that we must ensure that it is offered to all Americans, not in an identical process, but in a uniform and nondiscriminatory manner.

And that is what the compromise accomplished by ensuring that so long as the minimum standards were satisfied regarding the provisional voting process, it does not matter what that provisional balloting process is called so long as it is a way to ensure equal access to the ballot box. While all jurisdictions must meet this requirement, the amendment offered by the Senator from New Hampshire, Senator GREGG, further clarifies that those States which are currently exempt from the provisions of the National Voter Registration Act, or Motor-Voter, can meet the requirements for provisional balloting through their current registration systems.

The second requirement also provides that election officials post information in the polling place on election day, such as a sample ballot and voting instructions to inform voters of their rights. Provisional balloting must be available by the Federal elections of 2004, while the posting of voting information on election day must begin upon enactment of the legislation.

GAO found that the two most common ways jurisdictions provided voter information were to make it available at the election office and to print it in the local newspapers.

With respect to sample ballots, 91 percent of the jurisdictions nationwide made them available at the election office, and 71 percent printed them in the local newspaper. Nationwide, 82 percent of the jurisdictions printed a list of polling places in the local paper.

In contrast, only 18 percent to 20 percent of jurisdictions nationwide placed public service ads on local media, performed community outreach programs, and put some voter information on the Internet. Mailing voter information to all registered voters was the least used approach, with 13 percent of the jurisdictions mailing voting instructions, 7 percent mailing sample ballots; and finally, 6 percent mailing voter information on polling locations.

The third requirement is intended to facilitate the administration of elections, especially on election day, and to guard against possible corruption of the system. This requirement calls for the establishment, by Federal elections in 2004, of a statewide computerized registration list that will ensure all eligible voters can vote. It will also ensure that the names of ineligible voters will not appear on the rolls.

The Carter-Ford Commission explicitly recommended that every state adopt a system of statewide voter registration. The Caltech-MIT report similarly recommended the development of better databases with a numerical identifier for each voter. The Constitution Project also called for the de-

velopment of a statewide computerized voter registration system that can be routinely updated and is accessible at polling places on election day.

Additionally, this requirement establishes identification procedures for first-time voters who have registered by mail. In order to ensure against fraud and the possibility that mail-in registrants are not eligible to vote, first-time voters unless otherwise exempted will present verification of their identity at the polling place or submit such verification with their absentee ballot. The manager's amendment adopted last evening harmonizes this provision with the 2004 effective date for provisional balloting and the creation of computerized statewide registration lists. This is an important change that recognizes the administrative burden of the provision on both States and voters and so provides adequate time for jurisdictions to come into compliance and educate voters about the new provision. This amendment also establishes a uniform effective date of January 1, 2003 for first-time voter registration subject to the first-time voter provision. This assures that all eligible voters, regardless of where they live or vote, will know that if they register to vote after that date, they will have to meet the new requirements for first-time mail-registrant voters.

In order to fund these requirements and other election reforms by the States, the bipartisan compromise establishes three grant programs. The first grant program, the requirements grant program, provides funds to State and local governments to implement these three requirements. The compromise authorizes \$3 billion over 4 years, with no matching requirement, for this purpose. Under the amendment offered by Senators COLLINS, JEFFORDS and others, as adopted by the Senate, each State will receive a minimum grant equal to one-half of 1 percent of the total appropriation.

The second grant program is an incentive grant program designed to authorize \$400 million in this fiscal year to allow State and local governments to begin improving their voting systems and administrative procedures, even before the requirements go into effect. These funds may also be used for reform measures, such as training poll workers and officials, voter education programs, same-day registration procedures, and programs to deter election fraud.

Finally, in response to the GAO report that 84 percent of all polling places, from the parking lot to the voting booth, remain inaccessible to the disabled, the compromise creates a third grant program to provide funds to States and localities to improve the physical accessibility of polling places. This important initiative will help assure that no matter what the physical impediment, all eligible Americans will be able to not only reach and enter the polling place, but enter the voting

booth to cast their ballot as well. While this bill does not eliminate curbside voting, the amendment offered by Senators MCCAIN and HARKIN, and incorporated into the bill, as well as provisions of the amendment by Senator THOMAS adopted last night, expresses the sense of the Senate that curbside voting be the last alternative used to accommodate disabled voters. We are hopeful that these funds will make that a reality.

The final provision of the compromise establishes a new, bipartisan Federal agency to administer the grant programs and provide on-going support to State and local election officials in the administration of Federal elections. This new entity reflects an appropriate continuing federal role in the administration of Federal elections.

This bipartisan Federal election commission will be comprised of four presidential appointees, confirmed by the Senate, who will each serve a single, 6-year term. In order to ensure that all actions taken by the commission are strictly bipartisan, including the approval of any grants and the issuance of all guidelines, every action of the commission must be by majority vote.

With that overview, let me go through the compromise and explain its provisions in greater detail. The first title of the bill lays out three uniform and nondiscriminatory election technology and administration requirements which shall be met.

Although some have advocated instituting optional reforms, others have insisted that only minimum Federal requirements would ensure that every eligible voter can cast a vote and have that vote counted. The co-author of the "Equal Protection of Voting Rights Act" who serves as the ranking Democrat of the House Judiciary Committee, Congressman JOHN CONYERS, cautioned in his testimony before the Rules Committee against adopting measures that would allow "States to simply elect to opt out of any standards," noting that past landmark civil rights bills, including the Voting Rights Act and the Americans with Disabilities Act, also set minimum Federal standards.

As the Democratic Caucus Special Committee on Election Reform reported:

We do not believe that funding, without some basic minimum standards, is sufficient to achieve meaningful reform. If states were allowed to opt out of the recommended changes in Federal elections, voters in those States would be denied the opportunity to participate in Federal elections on the same basis as voters in other States which adopt the reforms. In presidential elections, where the votes of citizens in one State are dependent on the votes of citizens in others, this discrepancy could diminish the impact of votes in those States that agree to implement these reforms.

The requirements approach is also supported by six members of the Carter-Ford Commission, who wrote in an additional statement following the report that Congress should insist upon

certain requirements, including voting systems and practices that produce low rates of uncounted ballots, accessible voting technologies, statewide provisional balloting, and voter education and information, including the provision of sample ballots.

As Christopher Edley, Jr., a member of the Carter-Ford Commission and professor at Harvard Law School, wrote, "At their core, their reforms are intended to vindicate our civil and constitutional rights. They are too fundamental to be framed as some intergovernmental fiscal deal, bargained out through an appropriations process."

These requirements are not intended to produce a single uniform voting system or a single set of uniform administrative procedures. On the contrary, they are intended to ensure that any voting system and certain administrative practices meet uniform standards that result in an equal opportunity for all eligible Americans to cast a ballot and have that ballot counted.

GAO found that both a jurisdiction's voting equipment and its demographic make-up had a statistically significant effect on the percentage of uncounted votes. As a result, GAO found that counties with higher percentage of minority voters had higher rates of uncounted votes. GAO also reported that the percentages of uncounted presidential votes were higher in minority areas than in others, regardless of voting equipment. These findings underscore the importance of instituting minimum Federal requirements that will ensure that all voters have an equal opportunity to vote and have their vote counted, regardless of their race, disability or ethnicity or the state in which they reside.

The House Democratic Caucus Special Committee on Election Reform specifically recommended that Congress institute minimum national standards that require voting systems with error detection devices that are fully accessible to elderly voters, voters with physical disabilities, and visually impaired voters. Likewise, six members of the Carter-Ford Commission advised Congress to require states and localities to use voting technologies that produce low rates of uncounted ballots, are accessible to voters with disabilities, are adaptable to non-English speakers, and allow all voters to cast a secret ballot.

The first requirement establishes standards that all voting systems must meet for any Federal election held in a jurisdiction after January 1, 2006.

It is important to note, that with regard to effective dates, the actual date on which the requirements must be implemented will vary from jurisdiction to jurisdiction depending upon when the first Federal election occurs in 2006. A Federal election is intended to include a general, primary, special, or runoff election for Federal office.

There are five basic standards that all voting systems shall meet under the first requirement:

First, a notification procedure to inform a voter when he or she has over-voted, including the opportunity to verify and correct the ballot before it is cast and tabulated. This first standard is modified for voting systems in which the voter casts a paper or punch card ballot or votes are counted at a central location, as provided for in the amendment offered by Senator CANTWELL and incorporated into the bill.

Second, all voting systems must produce a record with an audit capacity, including a permanent paper record that will serve as an official record for recounts. As the Chairman of the Rules Committee, let me advise my colleagues of the importance of this feature in the unlikely event that a petition of election contest is filed with the Senate. Often, in order to resolve such contests, the Rules Committee must have access to an audit trail in order to determine which candidate received the most votes.

Third, all voting systems must be accessible to persons with disabilities.

Fourth, all voting systems must provide for alternative language accessibility; and

Fifth, all voting systems must meet a Federal error rate in counting ballots, which will be established by the new election administration commission.

A few of these standards merit additional discussion. With regard to the first standard, which requires notification to the voter of an over-vote, there has been a great deal of misunderstanding about this provision. The compromise before us made significant changes in the original bill reported by the Rules Committee. The original bill required that voting systems notify a voter of both over-votes and under-votes. This compromise deletes the required notification of an under-vote. While the new commission is charged with studying the feasibility of notifying voters of under-votes, there is no under-vote notification requirement in the compromise.

To further clarify the purpose of over-vote notification, there is no intent to have an adverse impact on any jurisdiction with election administration procedures for instant runoff or preferential voting. All jurisdictions, including Alaska, California, Florida, Georgia, New Mexico and Vermont are not prohibited from using such voting procedures to conduct instant runoff or preferential under this Act.

Notification is an essential standard because it provides an eligible voter a "second chance" opportunity to correct his or her ballot before it is cast and tabulated.

The Caltech-MIT report emphasized the need for voting equipment that "... give[s] voters a chance to change their ballots to fix any mistakes . . ." Similarly, the Carter-Ford Commission explicitly recommended that: "Voters should have the opportunity to correct errors at the precinct or other polling place . . ."

With regard to the notification, it is the voting system itself, or the educational document, and not a poll worker or election official, which notifies the voter of an over-vote. The sanctity of a private ballot is so fundamental to our system of elections, that the language of this compromise contains a specific requirement that any notification under this section preserve the privacy of the voter and the confidentiality of the ballot.

The Caltech-MIT study noted that secrecy and anonymity of the ballot provides important checks on coercion and fraud in the form of widespread vote buying.

This concern for preserving the sanctity of the ballot, as well as practical differences in paper ballots versus machines, led us to create an alternative notification standard for paper ballots, punch card systems, and central count systems.

Paper ballot systems include those systems where the individual votes a paper ballot that is tabulated by hand. Central count systems includes mail-in absentee ballots and mail-in balloting, such as that used extensively in Oregon and Washington State, and to a lesser extent in Alaska, California, Colorado, Florida, Kansas, and 13 other States where a paper ballot is voted and then sent off to a central location to be tabulated by an optical scanning or punch card system. Under the bill as clarified by Senator CANTWELL's amendment, a mail-in ballot or mail-in absentee ballot is treated as a paper ballot for purposes of notification of an over-vote under section 101 of this compromise, as is a ballot counted on a central count voting system. However, if an individual votes in person on a central count system, as is used in some states which allow early voting or in-person absentee voting, for that voter, such system must actually notify the voter of the over-vote.

In the case of punch cards and paper ballot and central count systems, including mail-in ballots and mail-in absentee ballots, the state or locality need only establish a voter education program specific to that voting system in use which tells the voter the effect of casting multiple votes for a single Federal office.

Regardless of a punch card system or a paper ballot voting system, all mail-in ballots and mail-in absentee ballots must still meet the requirement of providing a voter with the opportunity to correct the ballot before it is cast and tabulated under section 101 of this compromise.

I also want to note for the record that although this compromise provides an alternative method of notifying voters of over-votes for punch card and paper ballot systems, nothing in this legislation precludes jurisdictions from going beyond what is required, so long as such methods are not inconsistent with the Federal requirements under this title or any law described in section 402 of this Act.

In fact, Cook County, Illinois uses a punch card reader that can be programmed to notify the voter of both over-votes and under-votes. It is my understanding that this technology can provide an individual voter with such notification in a completely private and confidential manner. The system allows the voter to correct his or her ballot or override the notice if the voter so desires.

As for the other types of voting systems, namely lever machines, precinct-based optical scanning systems, and direct recording electronic systems—or DREs—the voting system itself must meet the standard. Specifically, the voting system must be programmed to permit the voter to verify the votes selected, provide the voter with an opportunity to change or correct the ballot before it is cast or tabulated, and actually notify the voter if he or she casts more than one vote for a single-candidate office.

Again, it is important to understand that it is the machine itself, and not the poll worker or official, that notifies the voter.

We believe that the bill as amended recognizes the inherent differences between paper ballot systems and mechanical or electronic voting systems, and is a reasonable accommodation which nonetheless ensures that all voters will have the information and the notice necessary to avoid spoiling their ballot due to an over-vote.

Let me also take a minute to discuss the disabled accessibility standard. This is perhaps one of the most important provisions of this compromise. The fact is ten million blind voters did not vote in the 2000 elections in part because they cannot read the ballots used in their jurisdiction. In this age of technology that is simply unacceptable.

The Committee received a great deal of disturbing testimony regarding the disenfranchisement of Americans with disabilities. Mr. James Dickson, Vice President of the American Association of People with Disabilities, testified that our Nation has a “. . . crisis of access to the polling places.” Twenty-one million Americans with disabilities did not vote in the last election—the single largest demographic groups of non-voters.

To respond to this “crisis of access,” this compromise requires that by the federal elections of 2006, all voting systems must be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired. Most importantly, that accommodation must be provided in a manner that provides the same opportunity for access and participation, including privacy and independence, as for other voters.

In order to assist the states and localities in meeting this standard, the bill adds an important new provision that allows jurisdictions to satisfy this standard through the use of at least one direct recording electronic (DRE) voting system in every polling place.

Let me note that these voting systems are not just for the use of the disabled. According to GAO, approximately 12 percent of registered voters nationwide used DREs in the last Federal election. Obviously, anyone in the polling place can use the system. But these machines can be manipulated by not only the blind and vision-impaired, but by paraplegic and other individuals with motor skill disabilities.

Furthermore, the Caltech-MIT study suggests that DREs have the potential to allow for more flexible user interfaces to accommodate many languages. This means that DRE voting systems can also be used to meet the accessibility requirements for language minorities as well. Moreover, the bill does not require that a jurisdiction purchase a DRE to meet the accessibility requirements. Jurisdictions may also choose to modify existing systems to meet the needs of the disabled.

Some of my colleagues have expressed concerns that this may be a wasteful requirement for jurisdictions that have no known disabled voters. Let me make clear that the purpose of this requirement is to ensure that the disabled have an equal opportunity to vote, just as all other non-disabled Americans, with privacy and independence. It is simply not acceptable that the disabled should have to hide in their homes and not participate with other Americans on election day simply because no one knows that they exist.

I have indicated my willingness to look at the impact of the each of the bill's provisions on small communities and rural areas in conference, and the amendment by Senator THOMAS adopted last evening expresses that. With regard to the disability provisions, I will do so with the twin goals of ease of administration but equality of voting opportunity in mind.

Finally, let me touch on the issue of alternative language accessibility. This standard generally follows the procedures for determining when a language minority must be accommodated under the Voting Rights Act, with an important difference. The Voting Rights Act recognizes only four general groups of language minorities: Asian Americans, people of Spanish heritage, Native Americans and native Alaskans.

This compromise leaves in place the numerical triggers under the Voting Rights Act. It merely allows groups who otherwise do not meet the very narrow definition in the Voting Rights Act to nonetheless receive an alternative language ballot. So, if a Haitian or a Croatian population meets the numerical triggers, they, too, will have access to bilingual materials in their native language.

With the addition of section 203 in 1975 to the Voting Rights Act of 1965, Congress sought to increase voter turnout of language minorities by requiring bilingual voting assistance.

In 1992, Congress amended, reauthorized and strengthened section 203 by

passing the Voting Rights Language Assistance Act with an expiration date of 2007.

This Act requires states and political subdivisions with significant numbers of non-English speaking citizens of voting age to improve language assistance at the polls for American voters. The required bilingual assistance includes bilingual ballots, voting materials, and oral translation services.

These bilingual services are triggered when the Census Bureau determines that more than 5 percent of the voting age citizens are of a single language minority and are limited-English proficient; or more than 10,000 citizens of voting age are members of a single language minority who are limited in their English proficiency.

Here we are in 2002 with the same concerns for our language minorities. Accordingly, our compromise follows the Congressional tradition of strengthening voting assistance to our language minority citizens by including language minority groups that were not included in earlier amendments to the Voting Rights Act. It merely widens the coverage of language minorities to ensure that a large number of limited-English speakers may participate in the elections process.

This is accomplished by ensuring alternative language accessibility to voting systems, provisional balloting, and inclusion as a registered voter in the statewide voter registration lists. These safeguards provide an equal opportunity for all eligible language minorities to cast a vote and have that vote counted.

In the spirit of minority language accessibility under the Voting Rights Act, the purpose of this bill is to establish uniform, nondiscriminatory standards for voting systems and administration of elections. To continue to recognize only four distinct language minority groups is neither uniform nor nondiscriminatory.

This Act also provides for a Commission study to determine whether the voting systems are, in fact, capable of accommodating all voters with a limited proficiency in the English language and make necessary recommendations.

This compromise includes provisions specifying how lever voting systems may meet the multilingual voting requirements if it is not practicable to add the alternative language to the lever voting system and the state or locality has filed a request for a waiver.

Finally, the requirement that voting systems meet a uniform, national error rate standard is a particularly important reform. Requiring voting systems to conform to a nationwide error rate ensures the integrity of the results and greater uniformity and nondiscriminatory results in the casting and tabulating of ballots. It is important to note that error rates encompass more than just errors due to the mechanical failure of the equipment and can re-

flect design flaws that impede the ability of voters to accurately operate the voting system. Error rates should reflect the design, accuracy, and performance of systems under normal voting conditions.

Similarly, operating failures of the voting system, or voter confusion about how to operate technology or use various types of ballots, may be the result of unclear instructions or poor ballot design. The Committee received information from the American Institute of Graphic Arts regarding the importance of design in the voting experience. AIGA has been working with the Federal Election Commission to educate the FEC on the importance of communication design. It would be appropriate for the new Election Administration Commission to study the issue of communication design criteria and consider incorporating such ideas into its guidelines.

In order to ensure that states and localities have sufficient time to meet these requirements, the compromise directs that the Office of Election Administration—which is currently housed at the Federal Election Commission but will be transferred to the new Election Administration Commission—issue revised voting system standards by January 1, 2004, two years before the standards must be in place. This should give vendors sufficient time to modify and certify their products and allow State and local governments to procure DREs which are dis-able accessible for each polling place.

Most importantly, the compromise states that nothing in the language of the voting system requirements shall require a jurisdiction to change their existing voting system for another. Unlike the H.R. 3295, the bill that passed the House, this compromise presumes, protects, and preserves, all methods of balloting. And while some systems may have to be enhanced or modified to some extent, or additional voter education conducted, no jurisdiction is required by this bill to exchange the current voting system used in that jurisdiction with a new system in order to be in compliance.

However, the voting system that is in use must meet these standards in order to ensure that all eligible voters have access to a uniform, nondiscriminatory system.

It is vitally important that the Congress institute these basic voting system standards. As Congresswoman EDDIE BERNICE JOHNSON, Chair of the Congressional Black Caucus testified, “All over the world, the United States is seen as the guarantor of democracy. This country has sent countless scores of observers to foreign lands to assure that the process of democracy is scrupulously maintained. We cannot do less for ourselves than we have done for others.”

The second Federal minimum requirement contained in the compromise provides for provisional balloting and the posting of voting infor-

mation in the polling place on election day.

For Federal elections beginning after January 1, 2004, State and local election officials shall make a provisional ballot available to voters whose names do not appear on the registration rolls or who are otherwise challenged as ineligible.

In order to receive a provisional ballot, the voter must execute a written affirmation that he or she is a registered voter in that jurisdiction and is eligible to vote in that election. Once executed, the affidavit is handed over to the appropriate election official who must promptly verify the information and issue a ballot.

The election official then makes a determination, under state law, as to whether the voter is eligible to vote in the jurisdiction, or not, and shall count the ballot accordingly.

It is important to note that in some jurisdictions, the verification of voter eligibility will take place prior to the issuance of a ballot based upon the information in the written affidavit. In other jurisdictions, the ballot will be issued and then laid aside for verification later. Both procedures are equally valid under the compromise, and the amendment adopted last evening, offered by the Senator from Michigan, Senator LEVIN, reflects that. The authors of the compromise have repeatedly said that we do not require a one-size-fits-all approach to elections in this bill. The same is true for the provisional balloting requirement which provides flexibility to states to meet the needs of their communities in slightly differing ways.

In order to ensure that voters who cast provisional ballots are properly registered in time for the next election, within 30 days of the election the appropriate election official must notify, in writing, those voters whose ballots are not counted. A voter whose provisional ballot is counted does not have to be individually notified of such.

This bipartisan compromise requires all 50 States and the District of Columbia to provide for provisional balloting in Federal elections, even if a State also permits same-day registration or requires no registration. In States without voter registration requirements, provisional balloting will protect the rights of voters whose eligibility to cast a ballot is officially challenged, for whatever reason, at the polling place.

In States with same-day voter registration, the right to cast a provisional ballot will protect an eligible voter who pre-registers and whose name is not on the official list of eligible voters or whose eligibility is challenged by an election official, but who cannot re-register on Election Day. For example, a properly registered legal voter heading to the polls might not carry the identification required by the State for same-day voter registration. Under this compromise, if that voter's

name does not appear on the list of eligible voters or the voter's eligibility is officially challenged, the voter could cast a provisional ballot. If the voter does have the identification required to register on Election Day, he or she would have the option of registering again and casting a ballot in accordance with state law. Same-day registration thus not only boosts voter turnout but also offers another way that states can guard against disenfranchising voters as the result of registration problems that arise on election day.

This compromise further ensures that a voter will receive a provisional ballot if he or she needs one. The provisional ballot will be counted if the individual is eligible under State law to vote in the jurisdiction. It is our intent that the word "jurisdiction," for the purpose of determining whether the provisional ballot is to be counted, has the same meaning as the term "registrant's jurisdiction" in section 8(j) of the National Voter Registration Act.

However, the appropriate election official must also establish a free access system, such as a toll-free phone line or Internet website, through which any voter who casts a provisional ballot can find out whether his or her ballot was counted, and if it was not counted, why it was not counted. Voters casting a provisional ballot will be informed of this notification process at the time they vote. And the compromise requires that the security, confidentiality, and integrity of the information be maintained.

In order to ensure that voters are aware of the provisional balloting process and are provided information about sample ballots and their voting rights, the compromise requires that certain election information be posted at the polling place on election day. This is a significant change from the original bill which required an actual mailing to each registered voter or the equivalent of such notice through publication and media distribution. Although some states already mail individual sample ballots to the homes of registered voters and post voting information in the polling place, the compromise will establish a national uniform standard with respect to voting information.

Like provisional voting, increased voter education is widely endorsed. The Carter-Ford report recommends the use of sample ballots and other voter education tools. The report of the Democratic Caucus Special Committee on Election Reform also urged increased voter education efforts, especially targeted to new voters.

The Caltech-MIT report advocates increased voter education, including the publication of sample ballots, providing instructional areas at polling places, and additional training for poll workers, as a way to reduce the number of lost votes. Other organizations support additional voter education, including the League of Women Voters, the Constitution Project, and the NAACP.

Voter education is particularly important for communities disproportionately impacted by the current inadequacies in our voting systems. As Anil Lewis, President of the Atlanta metropolitan chapter of the National Federation of the Blind, testified to at the Committee hearing in Atlanta:

Many of the disenfranchised, disabled voters do not have [a] record of knowing that the polls are now accessible. Many of them, out of frustration, have refused to go to the polls to vote. They have not taken advantage of the absentee opportunity to vote as an absentee ballot, but by educating them that these accommodations are now in place, we are going to increase the vote turnout for people with disabilities.

Hilary O. Shelton, president of the Washington, D.C. chapter of the NAACP, testified before the Committee about poll workers who told African-American voters that they could not have another ballot after they had made a mistake on their first one, despite a State statutory requirement that voters be given another punch card if they needed one.

The clear message the Committee received is that voters, particularly those with special needs, simply do not know what services and voting opportunities are available to them. This requirement will ensure that voting information will be provided.

The specific information that must be posted in the polling place includes: a sample ballot with instructions, including instructions on how to cast a provisional ballot; information regarding the date and hours the polling place will be open; information on the additional verification required by voters who register by mail and are voting for the first time; and general information on voting rights under Federal and State law and instructions on how to contact the appropriate official if such rights are alleged to have been violated.

The requirement for posting voting information in the polling place is effective for federal elections which occur after the date of enactment of the legislation.

While it is not anticipated that extensive guidelines will be necessary to implement the provisional ballot requirement, any such guidelines must be issued by January 1, 2003, either by the Department of Justice, or the new Election Administration Commission if it is up and running.

The third requirement calls for the creation of a statewide computerized voter registration list and new verification procedures for first-time voters who register by mail. This requirement will facilitate the administration of election day activities and addresses concerns about possible voter registration fraud. Although GAO found there is less than a 1 percent to 5 percent incident of fraud nationwide the reality is that even an insignificant potential for fraud can undermine the confidence of voters, election officials, political parties, etc., in the results of a close election.

More specifically, GAO found as a general matter that most jurisdictions did not identify this type of fraud as a major concern, because state and local election officials have established procedures for preventing mail-in absentee fraud.

GAO estimated that less than 1 percent to 5 percent of jurisdictions nationwide experienced special problems with absentee voting fraud during recent elections. However, the absentee voting fraud concerns tend to fall into three categories, including: one, someone other than the appropriate voter casting the mail-in absentee ballot; two, absentee voters voting more than once; and three, voters being intimidated or unduly influenced while voting the mail-in absentee ballot.

GAO also reported that during the November 2000 elections, local election jurisdictions used several procedures to prevent fraud in the above three areas, including providing notice to such voters about the potential legal consequences of providing inaccurate or fraudulent information on the balloting materials.

Finally, GAO reported that some of the local election officials commented that they had referred certain cases to the local District Attorney's office for possible prosecution.

Specifically, the third requirement of the compromise provides that each State, acting through the chief State election official, shall establish an interactive computerized statewide voter registration list by the first Federal election in 2004.

This computerized list must contain the name and registration information for every legally registered voter in the State. To ensure accurate list maintenance and to deter potential fraud, the list must assign a unique identifier to each voter, and the list must be accessible to State and local election officials in the State. Furthermore, the compromise permits the use of social security numbers for voter registration while ensuring that privacy guarantees are maintained.

List maintenance must be performed regularly, and the purging of any name from the list must be accomplished in a fashion that is consistent with provisions of the National Voter Registration Act, more commonly known as the Motor-Voter law.

While this compromise reflects a belief that technology can provide an effective deterrent to fraud through the use of computerized registration lists, the amendment offered last evening by Senator NICKLES also ensures that such technology is not subject to unauthorized use by hackers or others who wish to defraud the system by use of technology. Similarly, voting system error rates do not include system security. A voting system with a computer modem, such as used in the DRE and optical scan technology, could be compromised through a computer network. Senator NICKLES amendment requires that State and local officials address

the security of voting systems technology. It would also be appropriate for the new commission to consider developing security protocols for voting systems as a part of its overall responsibility for overseeing the creation and updating of the voluntary voting system standards.

Essentially, the compromise provides for the removal of individuals from official voter registration lists if such individuals are not eligible to vote. There are many reasons an individual might be ineligible to vote. The individual may have moved outside the State or may have died. Some may have been convicted of a felony or been adjudicated incompetent, either of which may under some State laws could end the individual's eligibility.

The compromise provides a mechanism for removing the names of such individuals from the rolls. Under this mechanism there are three essential elements. First, the individual is to be notified that the State believes he or she is ineligible. Second, the individual is to have an opportunity to correct erroneous information or to confirm that his or her status has changed. And third, if the individual has not responded to the notice, the individual is to be given an opportunity to go to the polls and correct erroneous information and then vote.

This third element is needed to ensure that the right to vote is not dependent on the mails. It allows an individual to correct erroneous information when that individual goes to the polls. These are the mechanisms outlined in the National Voter Registration Act, and these are the mechanisms that will be used under this compromise to remove any ineligible individuals from the voter registration rolls.

In addition, under this compromise, a State or its subdivisions shall complete, not later than 90 days prior to the date of an election, any program that systematically removes the names of ineligible voters from an official list of eligible voters.

And, of course, any voter removal system must be uniform, nondiscriminatory and in compliance with the Voting Rights Act. The voter removal system shall not result in the removal of the name of any person from the official list of voters registered to vote in an election for Federal office by reason of the person's failure to vote.

The managers of this bill intend to ensure, and the legislation ensures, that only voters who are not registered or who are not eligible to vote are removed from the voter rolls.

As a practical matter, once the computerized list is up and running, list maintenance will be almost automatic. While many of us have read of allegations of massive duplicate registrations, the truth is that even though duplicate names appear on more than one jurisdiction's list, the vast majority of voters only live in one place and only vote in one place.

In a highly mobile society like ours voters move constantly. And while they may remember to change their mailing address with the post office, with utility companies, and with the bank and credit card companies, they may not even think about changing their address with the local election official until it comes time to vote.

If there is no statewide system for sharing such information, voters can easily remain on lists long after they have moved. If the State or jurisdiction is not vigilant about conducting list maintenance, the number of so-called duplicate names can easily grow.

The State of Michigan has a very good system which we used as a model for judging what was possible under this requirement. As I understand it, under the Michigan system, when a voter changes his or her address, the address change is entered into the system, and it automatically notifies both jurisdictions simultaneously. This results in an automatic update which precludes the possibility of duplicate registration.

Moreover, while the compromise does not require it, many States will make this computerized list available to local officials at the polling place on election day. This tool can then be used to immediately verify registration information at the polling place, without the frustration of dialing into a toll-free number that always rings busy.

Let me also address an issue that has been raised by local election officials. Some local officials are concerned that they will lose the ability to effectively manage their voter rolls if the primary responsibility for input and list maintenance is shifted to the State.

This requirement does not specify who is responsible for the daily maintenance of the list—that is left to each State to decide as it best sees fit. However, in order to have an interactive statewide list, a central authority must have the ultimate responsibility for establishing such a computerized system.

That responsibility falls clearly to the chief State election official. This proposal envisions close cooperation and consultation with local election officials who are interacting with new voters every day.

Several States have already begun implementing such systems or have been running such systems for years. The Council of State Governments notes that the States of Oklahoma, Kentucky and Michigan have particularly good models for other States to follow.

To further guard against potential fraud, the third requirement also establishes new verification procedures for first-time voters who register by mail.

In the case of an individual who registers by mail, the first time the individual goes to vote in person in a jurisdiction, he or she must present to the appropriate election official one of the

following pieces of identification: a current valid photo id; or a copy of any of the following documents: a current utility bill; a bank statement; a government check; a paycheck; or another government document with the voter's name and address.

The compromise does not specify any particular type of acceptable photo identification. Clearly, a driver's license, a student ID, or a work ID that has a photograph of the individual would be sufficient.

If the voter does not have any of these forms of identification, he or she must be allowed to cast a provisional ballot, following the procedures outlined in the second requirement of the compromise under Section 102.

In the case of a voter who registers by mail and votes absentee for the first time in the jurisdiction, the voter must include a copy of one of these pieces of identification with their absentee ballot.

It is important to note that it is the voter, and not the State or local election official, who determines which piece of identification is presented for the purposes of casting a provisional ballot.

A first-time voter may avoid producing identification at the polling place or including it with an absentee ballot by mailing in a copy of any of the listed pieces of identification with his or her voter registration card.

Additionally, as added by the amendment of the Senator from Oregon, Senator WYDEN, adopted last evening, the voter may choose to submit his or her driver's license number or the last four digits of his or her Social Security number which the State can then match against an existing database to see if the number submitted match the name, address, and number in the state file. In the event that a first-time mail-registrant voter cannot produce the required identification, he or she may cast a provisional ballot if voting in person. In the case of a mail-in ballot, if the required identification verification information is not included, the ballot will nonetheless be counted as a provisional ballot.

This is an important and common sense change to the compromise which preserves the anti-fraud provisions while at the same time providing voters with more options for verifying their identity while increasing the flexibility of State and local administrators to verify such identity. Either way, it will be easier to vote and harder to defraud the system. I am greatly appreciative to all of my colleagues, and their staff, for working so diligently to achieve this modification.

The compromise also preserves the existing exemptions under the Motor-Voter law under section 1973gg-4(c)(2) of title 42 in the implementation of this compromise. A State may not by law require a person to vote in-person if that first-time voter is: one, entitled to vote by absentee ballot under section 1973ff-1 of title 42 of the Uniformed

and Overseas Citizens Absentee Voting Act; two, provided the right to vote otherwise than in-person under section 1973ee-1(b)(2)(b)(ii) and 1973ee-3(b)(2)(b)(ii) of the Voting Accessibility for the Elderly and Handicapped Act; and three, entitled to vote otherwise than in-person under any other Federal law.

There is no question about the intent to this Senator. The exemptions under Motor-Voter are preserved under this compromise. There is no attempt to change current law with respect to preserving the long-standing practice of States permitting eligible uniform service voters and eligible American overseas voters to continue to vote by absentee ballot without this first-time voters requirement attaching.

Similarly, there is no attempt to change current law with respect to preserving the States' practice of permitting disabled voters and senior voters to continue to vote by absentee ballot without this first-time voter requirement attaching.

According to GAO, "All states provide for one or more alternative voting methods or accommodations that may facilitate voting by people with disabilities whose assigned polling places are inaccessible." For example, all States have provisions allowing voters with disabilities to vote absentee without requiring notary or medical certification requirements, although the procedures for absentee voting vary among States. The GAO State survey demonstrates that all States permit absentee voting for voters with disabilities. There is no intent to change the underlying law for any of these covered individuals since covered individuals are not subject to the requirements for first-time voters under Section 103.

Finally, the compromise adds two new questions to the mail-in registration form under the Motor-Voter law. These questions are designed to assist voters in determining whether or not they are eligible to register to vote in the first place and thus reduce the number of ineligible applications. When a non-citizen fills out a voter registration form while waiting to renew a driver's license, or a 16 year-old high school senior applies to vote along with his or her classmates during the voter registration drive at the high school, it does not mean that these individuals are attempting to defraud the system. They may actually be very civic-minded individuals who are just misinformed about whether or not they are eligible to register.

These two additional questions will help alert such voters to the fact that they are not yet eligible to vote. First, the mail-in registration card must include the question with a box for checking "yes" or "no": "Are you a citizen of the United States of America?" Second, the mail-in registration card must include the question with a box for indicating "yes" or "no": "Will you be 18 years of age on or before election day?" If a voter answers "no" to

either question, the registration card must instruct the voter not to fill out the form.

There has been an issue raised with regard to those States that allow for early registration and the impact of this provision on that. However, this bill only applies to Federal elections and a voter must be 18 years of age to vote in a Federal election. This requirement does not affect State law with regard to the minimum age for registration.

To the extent that guidelines are required to implement the statewide computerized voter list requirement or the first-time voter provision, the Department of Justice, or the new commission if it has been constituted, must issue these guidelines by October 1, 2003.

As with any such law, enforcement of the three requirements in Title I will fall to the Department of Justice, and the rights and remedies established under this bill are in addition to all others provided by law.

Title II of the measure before us contains three grant programs to assist states in meeting the minimum Federal requirements and to fund other election reform initiatives.

From the beginning of this debate it has been clear to this Senator that the Federal Government has not lived up to its responsibility to ensure adequate funding for the administration of Federal elections. The fundamental principle of this bipartisan compromise is that if the Federal Government is going to establish minimum requirements for the conduct of Federal elections, then we must provide the resources to State and local governments to meet those requirements.

Of equal importance is the principle that there should not be a one-size-fits-all approach to meeting the Federal minimum requirements. Consequently, the compromise provides broad latitude to States and localities on how they meet the minimum requirements and what specific activities they fund with the Federal grants.

The first grant program authorizes \$3 billion over 4 years for grants to State and local governments to be used to meet the three minimum Federal requirements of the bill. The only limitation on the use of these funds is that they be used to "implement" these requirements. The compromise envisions that implementation activities may vary widely both between States and across jurisdictions within a State. Clearly, funds may be used to purchase new voting systems or enhance or modify existing ones.

Obviously, specific grant approvals will necessarily have to be made by the Department of Justice or the new Election Administration Commission once it becomes effective, in light of the overall funding requests. However, it is the intent of this Senator that States and localities be given broad latitude in making the case that the reforms they seek to fund are in direct support

of the implementation of these requirements.

For example, a State may decide to upgrade an entire State from a lever voting system to an electronic system in order to meet the accessibility standard for the disabled. Clearly, the purchase of a new, statewide system would be an authorized activity used to implement the voting system standards of the first minimum requirement. But to meet the same requirement, another State might use these funds to lease one DRE machine for each polling place. That would be equally allowable and in compliance with this compromise.

Similarly, if some jurisdictions within a State use a central count punch card system, funds may be used to implement the voter education program required to notify voters of the effect of an over-vote, while other jurisdictions within that same State might use the funds to purchase precinct-based optical scan systems.

If a State or jurisdiction already meets the requirements of the bill, but wishes to upgrade old equipment to newer models or add improvements to ensure that it will continue to be in compliance, such would also be an allowable use of funding.

The compromise also authorizes retroactive payments for those jurisdictions which incurred expenses on or after January 1, 2001 for costs that would otherwise have been incurred to implement the minimum requirements. An amendment offered by Senators CHAFEE and REED, which was adopted by the Senator, clarifies that multi-year contract for the purchase of voting systems can also qualify for retroactive payments.

There is no matching requirement for these grants. If we are going to require that States and localities meet certain minimum Federal standards with regard to Federal elections, then we should provide them with the Federal resources to do so.

The requirements of the grant application process are designed specifically to allow both States and localities to apply for funds without creating either overlapping funding or inconsistencies within States.

To apply for funds to implement the requirements, States must submit an application to the attorney general with a State plan.

The State plan contains four basic components.

First, a description of how the state will use the funds to meet the three minimum requirements, including a description of how State and local election officials will ensure the accuracy of voter registration lists; and the precautions the State will take to prevent eligible voters from being removed from the list.

Second, an assessment of the susceptibility of Federal elections in the State to voting fraud and a description of how the State intends to address such.

Third, assurances that the State will comply with existing Federal laws, specifically: Voting Rights Act; Voting Accessibility for the Elderly and Handicapped Act; Uniformed and Overseas Citizens Absentee Voting Act; National Voter Registration Act (or Motor-Voter); and Rehabilitation Act of 1973.

Fourth, and finally, the State plan must include a timetable for meeting the elements of the plan.

In order to ensure the broadest support for the State plan, it must be developed in consultation with State and local election officials and made available for public review and comment prior to submission with any grant application.

In addition to the State plan, each application must include a statement of how the State will use the Federal funds to implement the State plan.

Localities may also submit a separate application for funds, but the use of funds must be consistent with the State plan. The application must also contain any additional information required by the attorney general or the new commission once it is effective.

Grant recipients must keep such records as the attorney general determines and, as is usually the case for Federal grant programs, any grant recipient may be audited by the attorney general or comptroller general. Grantees may be required to submit reports, and the attorney general must report to Congress and the President annually on the activities funded under this program.

One of the goals of this legislation is to encourage states and localities to move forward with election reform initiatives and apply for Federal grants, even before the effective dates established for meeting those requirements.

This is reflected in the larger appropriations in the early years and the fact that the appropriations remain available until expended.

This is one of the provisions of the committee-reported bill which has been retained in the compromise. The requirements under this compromise are so simple and so self-explanatory, that we do not believe that complicated guidelines, much less full-blown regulations, are going to be necessary to implement the requirements.

Consequently, the original bill, and this compromise, encourages States and localities to move expeditiously by essentially providing for a grandfathering of early action.

The compromise allows jurisdictions that apply for Federal grants prior to the issuance of any guidelines or standards to nonetheless receive funding to implement the requirements of the bill. If the attorney general approves the grant, then that approval acts as a determination that the State plan, and the activities in the State plan which will be funded with the grant, are deemed to otherwise comply with the minimum requirements of the bill.

However, in encouraging quick action we did not want to deter State and

local governments, much less penalize them if the early action they took turns out to be somehow inconsistent with subsequently issued guidelines. The most obvious instance in which this might occur would be with regard to the voting system standards and the not-yet-issued voting system error rate.

In order to avoid placing a State or locality at risk of non-compliance, the compromise essentially grandfatheres the action that the State takes pursuant to an approved State plan and grant application and provides a safe harbor from enforcement actions on that basis.

Without such a provision, the Federal Government might end up literally funding a State or locality twice for essentially the same reform—once when the State took early action and a second time when any subsequent guidelines or standards were finally issued.

Moreover, in promoting early action, the safe harbor provision attempts to give jurisdictions a reasonable amount of time to come into compliance with any subsequently issued guidelines or standards by extending the grandfather period to 2010, except for the requirements for disability access. Although the effective dates for most of the requirements are 2004 and 2006, this additional time period provided by the grandfather provision will minimize the otherwise disruptive effect to both voters and election officials of repeated changes to systems and procedures. It will also provide those States poised to act with the assurance that the decision to take early action will not end up in an enforcement action.

With regard to the disability accessibility standard under the voting system requirement, because the bill provides for a specific compliance mechanism in the requirement of one DRE machine in every polling place, it was believed that the extended safe harbor period was unnecessary and potentially disruptive to the disabled community. Consequently, in taking early action jurisdictions will still have to meet the disability access standards by 2006.

Similarly, with this same goal of encouraging States to take early action, the compromise creates a second incentive grant program designed to fund other election reform initiatives not necessarily funded under the requirements grant program.

The incentive grant program authorizes \$400 million in this fiscal year to fund such activities as: poll worker and volunteer training; voter education; same-day registration procedures; procedures to deter and investigate voting fraud; improvements to voting systems; and action to bring the jurisdiction into compliance with existing civil rights laws.

The compromise also establishes a program to recruit and train college students to serve as poll workers.

The incentive grant programs has a matching requirement of 80 percent Federal to 20 percent State or local

funding. The attorney general, however, can reduce the 20 percent matching requirement for States or localities that lack resources.

Although grants cannot be used to implement reforms that are inconsistent with the minimum Federal requirements, these grants can be used to take interim action to bring voting systems into compliance.

As with the requirements grant program, early action under the incentive grant program to implement the three minimum requirements is similarly grandfathered to 2010, with the exception of the disability requirements.

To apply for incentive grant funds, a State or locality submits an application to the attorney general or the new commission upon its enactment. Patterned after the requirements of the legislation introduced by Senators MCCONNELL and SCHUMER as S. 953, applications for incentive grant funds must contain a specific showing that the jurisdiction is in compliance with a number of existing civil rights laws, including: Voting Rights Act; Voting Accessibility for the Elderly and Handicapped Act; Uniformed and Overseas Citizens Absentee Voting Act; National Voter Registration Act; Americans with Disabilities Act; and Rehabilitation Act of 1973.

Before a grant application can be approved, the assistant attorney general for civil rights must certify that the jurisdiction is either in compliance, or has demonstrated that it will be using the grant funds to come into compliance, with these laws. Entities which receive funds to come into compliance with these laws are subject to audit.

The purpose of this provision is not to penalize or place in jeopardy those jurisdictions which are attempting to overcome compliance issues. Instead, it is intended to provide a source of funds for States or localities to address compliance issues under existing civil rights laws before facing the effective dates for minimum Federal standards under this new civil rights law. To ensure that jurisdictions are not penalized by this process, the compromise prohibits action being brought against a State or local government on the basis of any information contained in the application.

In order to ensure that these funds are available this year, the attorney general must establish any general policies or criteria for the application process so that grant applications can be approved no later than October 1, 2002.

The final grant program contained in Title II of the compromise provides funds to make polling places physically accessible to the disabled. GAO found that 84 percent of all polling places in the United States are not physically accessible from the parking area to the voting room. Moreover, not one of the 496 polling places visited by GAO on election day 2000 had voting equipment adapted for blind voters.

This is a modest grant program which authorizes \$100 million beginning in fiscal year 2002, with such funds to remain available until expended. States or localities may use these funds to ensure accessibility of polling places, including entrances, exits, paths of travel and voting areas of the polling facility.

Funds may also be used for education and outreach programs for those with disabilities to inform voters about the accessibility of polling places. Education programs to train election officials, poll workers and volunteers on how best to promote access and participation of individuals with disabilities can also be funded under this program.

This grant program will also be administered initially by the Department of Justice, and then by new Election Administration Commission. However, the general policies and criteria for the approval of applications for the accessibility grant program will be established by the Architectural and Transportation Barriers Compliance Board, also known as the Access Board, which was established under the Rehabilitation Act of 1973.

The Access Board is uniquely qualified to determine what physical modifications would be appropriate to make polling facilities accessible to disabled voters. The Board must establish such policies in time to ensure that applications can be approved by October 1, 2002.

Grants under the accessibility grant program are funded at an 80 percent Federal share, although the Attorney General can provide a greater share to jurisdictions which lack resources. Grantees must keep appropriate records and are subject to audit.

The final title of the compromise establishes a new independent agency within the executive branch for administering the three grant programs and providing on-going assistance to State and local governments in the administration of Federal elections.

The Election Administration Commission will be composed of four members appointed by the President and confirmed by the Senate. To reflect the need for a continuing nonpartisan approach to election administration, no more than two commissioners may be members of the same political party.

In recognition of the national significance of these appointments and to ensure the broadest bipartisan support for the President's nominees, the four respective leaders of the House and Senate, including the Speaker and the House Minority Leader and the Majority and Minority Leaders of the Senate, shall each submit a candidate recommendation to the President before the initial appointment of nominees and prior to the appointment of a vacancy.

The qualifications for appointment to the new commission reflect the desire to create a diverse and experienced commission that will bring more to the job than just experience in election ad-

ministration or loyalty and service to a particular party. We would hope to also attract scholars and historians who appreciate and understand the broadest experience of voters of all backgrounds, abilities, and party affiliations.

It would be this Senator's hope that we would attract candidates who have an appreciation of the fundamental importance of the citizen vote to a democracy and are committed to ensuring both the inclusiveness and the integrity of Federal elections.

Specifically, commissioners are to be appointed on the basis of their knowledge and experience with election law, election technology, and Federal, State or local election administration, as well as their knowledge of the Constitution and the history of the United States.

Appropriately, a commissioner at the time of appointment cannot be an elected or appointed officer or employee of the Federal Government. Unlike the House bill, this is a permanent, full-time commission. Consequently, commissioners cannot engage in any other business or employment while serving on the commission.

To ensure that the best talent that America has to offer will be continually reflected in appointees, we limit each commissioner to one 6-year term. Similarly, to ensure the broadest participation in the work of the commission, the compromise provides that a chair and vice-chair must be of different parties and serve for a term of 1 year, and an individual may serve as chair only twice during his or her 6-year term.

The duties of the commission reflect the fundamental approach of this compromise—that of forming a partnership between the Federal Government and State and local election officials. The purpose of this bill is not to replace or minimize the authority or responsibilities of State and local election officials in administering Federal elections. It is, however, an attempt to provide leadership at the Federal level, in the form of both financial resources and minimum Federal requirements, to ensure uniform and nondiscriminatory participation in those elections.

Consequently, the duties of the commission augment, but do not replace, those of State and local election officials. The commission can best be viewed as a resource for election officials rather than as a regulatory or enforcement body.

Primarily, the commission shall serve as a clearinghouse on Federal election administration and technology by gathering information, conducting studies and issuing reports on Federal elections. What became evident in the Rules Committee hearings and discussions with election officials across this Nation was the apparent lack of unbiased information regarding election technology. Today, the primary source of information about the efficiency and effectiveness of voting

systems and machines is often the manufacturer of the voting system or its vendor. The commission can provide a much needed role as an unbiased clearinghouse for technology assessments.

The compromise envisions that the current authority of the office of election administration, at the Federal Election Commission, to develop voluntary voting system standards would continue once this office is transferred to the new commission. While the compromise does not mandate what types of machines must be used in Federal elections, the fact that it establishes minimum requirements for voting systems, specifically acceptable error rates, necessitates that procedures for testing and assessing voting technology will be required. Such would be an appropriate activity for the new commission. To ensure that the commission has the best advice on technical and accessibility matters as it develops standards, the compromise directs the commission to consult with the National Institute of Standards and Technology and the Compliance Board in developing the standards.

The commission will also serve an important role in communicating information regarding Federal elections to the public and the media. Specifically, the compromise provides that the commission compile and make available to the public the official results of elections for Federal office and statistics regarding national voter registration and turnout. The compromise also requires that the commission establish an Internet website to facilitate public access, comment, and participation in the activities of the commission.

The compromise does not go as far as the Carter-Ford Commission recommended in this regard. As my colleagues may remember, the Carter-Ford Commission recommended that "... news organizations should not project any presidential election results in any State so long as polls remain open elsewhere in the 48 contiguous States ..." and that Congress should consider appropriate legislation, consistent with the first amendment to encourage the media to withhold early results. While the commission is in no way intended to replace the appropriate role of responsible media in informing the public of the outcome of Federal elections, the 2000 presidential election highlighted the need for a national clearinghouse for election results. Over time, the new commission may come to be accepted as the most authoritative source of election results.

The commission will conduct on-going studies regarding election technology and administration in addition to other subjects impacting Federal elections. Over the course of the last year, a number of excellent election reform proposals have been made that simply require more study and review before they can be enacted.

Specifically, the commission is charged with making periodic studies of the following: election technology, including both over-vote and under-vote notification capabilities of such technology; ballots designs for Federal elections; methods of ensuring accessibility to all voters; nationwide statistics on voting fraud in Federal elections and methods of identifying, deterring and investigating any such corruption; methods of voter intimidation; the recruitment and training of poll workers; the feasibility of conducting elections on different days, or for extended hours, including the advisability of establishing a uniform poll closing time or a federal holiday; Internet voting; Media reporting of election related information; Overseas voters issues; ways in which the Federal Government can assist in the administration of Federal elections; and any other matters which the commission deems appropriate.

The commission will be providing reports and recommendations for administrative and legislative action. Through the oversight process, I would anticipate that the Rules Committee will be reviewing those recommendations and acting to bring additional reform proposals to the floor in subsequent Congresses.

In addition to the study and clearing-house authorities, the commission is empowered to hold hearings, take testimony, and administer such oaths as are necessary to carry out its responsibilities. However, since the commission is not an enforcement agency, it does not have the authority to issue subpoenas.

Most importantly, the commission will ultimately assume the ongoing responsibility for administering the three minimum Federal requirements and the three grant programs under the bill. But so as not to discourage immediate election reform or delay the flow of Federal funds to support reform, the compromise does not tie the effective dates of the minimum requirements and the grant programs to the establishment of the commission.

The compromise attempts to expedite the appointment of the commissioners by requiring that the President act within ninety days of the date of enactment. As Chairman of the Rules Committee, the committee of jurisdiction over such nominations, it is my intent to move expeditiously to consider the nominations if they occur this year.

But realistically, the President may require additional time to appoint nominees and the committee cannot act until those nominations are made. Because the compromise requires the commission to appoint both the executive director and the general counsel by majority vote, even once confirmed, it will take some time for the commissioners to create a new agency and hire staff to administer over three billion dollars in grant programs.

Consequently, the compromise initially places the administration of both

the Federal minimum requirements and the three grant programs at the Department of Justice and provides for a transition of most, but not all, of those authorities to the new commission upon its establishment.

Specifically, the compromise transfers to the commission the authority to issue standards or guidelines for the three minimum Federal requirements, to issue policies and criteria for the three grant programs, and to approve by majority vote all grant applications. The Department of Justice retains the authority to approve State plans submitted under the requirements grant program and the certification authority under the incentive grant program.

In order to ensure that the transfer of authority does not impede the continuity of the requirements or the expeditious review of grant applications, the compromise sets specific dates by which the commission must act to overturn or modify any action of the Department of Justice.

If the Department of Justice has issued standards or guidelines pursuant to the Federal minimum requirements, the commission must act by majority vote within 30 days of the transition date to either affirm that action or to issue revised standards or guidelines. If the Department of Justice has not acted as of the transition date, then the commission must act by majority vote by the later of the effective date provided for in Title I or within 30 days of the transition date.

Similarly, if the Department of Justice has issued policies and criteria for the approval of grant applications, the commission must act by majority vote within thirty days of the transition date to either affirm or modify such. If the Department of Justice has not acted, the commission must similarly issue policies and criteria by the later of the date specified in Title II or within 30 days of the transition date.

The compromise defines the effective date of the transition as the earlier of sixty days after all of the commissioners have been appointed, or the date that is 1 year after the date of enactment of the act.

While the compromise attempts to coordinate the transition dates for transfer of responsibilities to the new agency with a reasonable time frame for appointing and confirming commissioners, it remains the prerogative of the President as to when he appoints and the will of the Senate as to when it confirms. And until those two actions occur, the commission will exist in name only and the Department of Justice will be left to administer the act.

In addition to assuming certain authorities of the Department of Justice under the bill, the new Election Administration Commission will also assume certain functions of the Federal Election Commission.

First, all functions of the director of the Office of Election Administration of the Federal Election Commission

are transferred to the new commission. Beginning on the transition date, the director of the Office of Election Administration is named as the interim executive director of the new commission and serves until an executive director is appointed by a majority vote of the commission. The executive director is appointed for a term of 6 years and may be reappointed by majority vote of the commission for a second term.

Second, all functions of the Federal Election Commission under the National Voter Registration Act of 1993, the so-called Motor-Voter Act, are transferred to the new Election Administration Commission. Section 9 of the act provides that the Federal Election Commission shall prescribe appropriate regulations necessary to carry out the act with respect to developing a mail voter registration application form for Federal elections and submit reports. The compromise also provides for the transfer of Federal Election Commission personnel employed in connection with the offices and functions which are transferred by the act.

Finally, Title IV of the compromise clarifies the relationship of this bill to other existing civil rights laws, and makes improvements in voting procedures for members of the military.

With respect to criminal penalties, this compromise includes two provisions that track existing laws and do not constitute new law. Both provisions merely are restatements of the existing underlying laws and do not alter the specific intent element described in sections 401(a) or 401(b) of this compromise. In the amendment which I offered and was adopted by the Senate, I inserted the existing specific intent of "knowingly and willfully" and "knowingly" in the respective provisions to ensure that those standards are the explicit legal standards of review for section 1973(i)(c) of title 42 and section 1015 of title 18 and therefore are the same standards to be applied under this act.

The first provision recognizes that the criminal penalties established under the National Voter Registration Act, specifically section 1973(i)(c) of title 42 and means in plain language that it is unlawful for any individual who knowingly and willfully gives false information as to his or her name, address, or period of residence in the voting district for the purpose of establishing his or her eligibility to register or vote in an election for Federal office, or conspires with another individual for the purpose of encouraging his or her false registration to vote in an election for Federal office.

The second provision clarifies that any individual who commits fraud or makes a false statement with regard to citizenship, such as in the context of the new citizenship question on registration forms as provided for under section 103 of the compromise, is in violation of section 1015 of title 18 and

means in plain language that it is unlawful for any individual who knowingly makes a false statement relating to naturalization, citizenship or registry of aliens, for the purpose of establishing his or her eligibility to register or vote in an election for Federal office.

With regard to the effect of the bill on existing civil rights laws, the compromise is specifically not intended to impair any right guaranteed, nor require any conduct which is prohibited under the various civil rights laws, nor are the provisions of the compromise intended to supercede, restrict, or limit such other laws, including: Voting Rights Act; Voting Accessibility for the Elderly and Handicapped Act; Uniformed and Overseas Citizens Absentee Voting Act; National Voter Registration Act of 1993; Americans with Disabilities Act of 1990; and Rehabilitation Act of 1973.

This Senator intends that nothing in this compromise should be interpreted in any manner other than to protect and preserve any and all rights guaranteed by these existing civil rights and voting laws.

For example, the approval of the Attorney General of any state plan under the provisions of the requirements grant in Title II of the compromise, or any other action taken by the Attorney General or a state under the grant programs in Title II, specifically shall not have any effect on requirements for pre-clearance under section five of the Voting Rights Act.

We do not profess to have all the answers or even the best solution for reforming our system of Federal elections. But we do present a compromise that reflects an incremental step, but not a sea change, in the role of the Federal Government in our Nation's system of Federal elections. This compromise has been developed with a true sense of the historical importance of the work and a fundamental belief that only a bipartisan effort will be acceptable to the American people.

Let me address a final concern—and that is the constitutional question of whether this bipartisan legislation is on its face, constitutional. In the opinion of this Senator, this compromise is entirely consistent with the scope of Congress's authority to enact statutes regulating Federal elections.

According to the GAO study on the scope of congressional authority in election administration, Congress has constitutional authority over both congressional and Presidential elections. This report concludes that there is a role for both the State and the Federal Government. States are responsible for the administration of Federal, State and local elections. But, notwithstanding the traditional State role in elections, Congress has the authority to affect the administration of elections in certain ways.

While the Constitution does not explicitly provide the right to vote, many amendments to the Constitution pro-

tect the right to vote. Congress has previously acted under this explicit grant of constitutional power to protect the voting rights of eligible Americans.

Congress passed the landmark Voting Rights Act of 1965. More recently, Congress enacted federal legislation to remove barriers to voting for persons with disabilities, facilitate voting by those in the military and Americans living overseas, and standardize voter registration procedures under the Motor-Voter legislation.

When Congress enacted these Federal statutes, Congress legislated in the subject matter of election administration in such areas as voting rights, voter registration, absentee voting requirements, timing of Federal elections, and accessibility for elderly and disabled voters. Similarly, Congress also legislated to enforce prohibitions against specific discriminatory practices in all elections, including Federal, State, and local elections.

Congress's scope of power is derived from a number of constitutional sources, including the 15th amendment's prohibition on voting discrimination on the basis of race, color, or previous condition of servitude; the 19th amendment's prohibition on the basis of sex; and the 26th amendment's prohibition on the basis of age.

These three amendments do not grant the right to vote, but all three prohibit States from denying the franchise to individuals who are racial or ethnic minorities, women, or citizens aged 18 or older.

The Carter-Ford Task Force on Constitutional Law and Federal Election Law also concluded that Congress has great power to regulate elections. The task force makes the point that the Constitution grants to Congress broad power to directly regulate Congressional elections, less power to directly regulate Presidential elections, and less power still to directly regulate state and local elections.

But as a practical matter, Congress has great power to collaterally regulate all elections through its power over the "time, place and manner" of Congressional elections and through its power to determine how Federal funds are made available to States for expenditures. That same authority derives from its enforcement powers of constitutional safeguards, such as the equal protection clause and due process clause of the 14th Amendment.

Opponents of this legislation might argue that it goes too far by providing Federal requirements in the areas of voting system standards, provisional voting and statewide voter registration lists. This Senator does not believe that will prove to be the case.

While the precise parameters of Congressional authority in election administration relating to presidential elections are unsettled and have not been clearly established, the Supreme Court has recently recognized that certain measures protecting voting rights are

within Congress's power to enforce the 14th and 15th Amendments, despite administrative burdens placed on the States.

In *Bush v. Gore* which was decided following the November 2000 Presidential election, the Supreme Court held that differing definitions of a vote within the state of Florida during the recount violated the equal protection clause and were therefore unconstitutional.

The enforcement powers from the 14th amendment alone provide adequate support for all three of the minimum Federal requirements in the bipartisan compromise bill. The reasoning of the Supreme Court in *Bush v. Gore* suggests that there may be a compelling governmental interest and constitutional authority for Congress to act in light of extensive evidence that African American or Asian American voters, for example, are being treated unequally with respect to their right to vote.

It should also be noted that while we take a different approach, the Carter-Ford Commission's recommendations also include voting system standards, provisional voting and a statewide voter registration system. Many other commissions and study groups also consistently recommended provisional voting.

We believe that the Constitution provides ample authority for these minimum Federal requirements and all the other provisions in this bipartisan compromise. Except in one instance, this legislation applies only to elections for Federal office, putting this urgently needed legislation beyond constitutional dispute.

I applaud the majority leader, Senator DASCHLE, for his commitment to make this measure a priority of this session of Congress and for his unfailing commitment to bring it to the floor for debate. I also commend the distinguished Republican Leader, Senator LOTT, for his assistance in facilitating consideration of this bipartisan compromise.

Our distinguished colleagues in the House, Chairman BOB NEY and Congressman STENY HOYER of the House Administration Committee have already shepherded a bipartisan reform proposal through that body. The differences between the approach in the House and our bipartisan compromise are not irreconcilable.

Both recognize that there are minimum standards that every voting system should meet. Both bills strive to ensure the greatest possible access to the polling place for disabled Americans and the blind. Both bills ensure that all eligible voters may cast a vote and have that vote counted. Both bills establish a new Federal agency to provide on-going support to State and local governments. And both approaches provide significant resources to the States and localities to underwrite the Federal share of administering Federal elections.

Not insignificantly, President Bush has also indicated his support for providing assistance to the States for election reform. Included in his fiscal year 2003 budget submission is a request for \$1.2 billion over the next three fiscal years, including \$400 million for fiscal year 2003, to fund an election reform initiative.

There appears to be a uniform desire in both houses of Congress to see that the Federal Government meets its obligation to be a partner with State and local election officials in the conduct of Federal elections. But time is running short and state budgets are growing thin. It is time for the Senate to enact election reform. It is time for the Senate to meet with the House to produce a bipartisan bill that is worthy of the signature of the President and the support of all the American people, regardless of color or class, gender or age, disability or native language, and party or precinct.

As this debate draws to a close, it is appropriate to recognize the significant contributions of both individuals and organizations which have provided input and expertise to the committee, and to me personally, in the course of this legislative matter. I have already expressed my gratitude to my colleagues on and off the committee and to my distinguished coauthor in the House, Congressman JOHN CONYERS, and to many other House Members who truly have made this effort their cause.

As we all know, no such effort can be undertaken without the considerable effort of our staff. In addition to those already mentioned, I want to thank Sheryl Cohen, Marvin Fast, Alex Swartsel and Tom Lenard of my personal staff, and two former Rules Committee staff members, Candace Chin and Laura Roubicek.

We have also received considerable assistance from the support offices of the Senate, including from James Fransen and Jim Scott in the Office of Legislative Counsel and from attorneys and analysts at the Congressional Research Service including Kevin Coleman, Eric Fischer, L. Paige Whitaker, and Judith Fraizer, and finally from the Government Accounting Office.

The list of organizations which have provided invaluable assistance to this effort over the last 18 months is almost too lengthy to include here. But it is important to note the breadth and depth of the input that went into crafting this historic legislation. At the risk of inadvertently leaving someone out, I want to recognize and thank the following organizations which have provided their expertise to this effort: American Association of People With Disabilities; American Civil Liberties Union; American Federation of State, County and Municipal Employees; American Institute of Graphic Arts; Asian American Legal Defense and Education Fund; Brennan Center for Justice; Center for Constitutional Rights; Common Cause; Commission on Civil Rights; Caltech-MIT Voting Tech-

nology Project; Constitution Project; Lawyers Committee for Civil Rights Under Law; Leadership Conference on Civil Rights; Mexican American Legal Defense & Education Fund; National Asian Pacific American Legal Consortium; National Association for the Advancement of Colored People; NAACP Legal Defense & Education Fund, Inc.; National Commission on Federal Election Reform (Carter-Ford Commission); National Association of Secretaries of State; National Association of State Election Directors; National Coalition on Black Civic Participation; National Congress of American Indians; National Conference of State Legislatures; National Council of La Raza; National Federation of the Blind; Paralyzed Veterans of America; People for the American Way; Public Citizen; U.S. PIRG.

It is the fervent view of this Senator that at the end of this historic process, the Senate will have made a lasting contribution to the continued health and stability of this democracy for the people, by the people and of the people in the United States.

My thanks to all who have been involved. I urge the adoption of this bill and yield back whatever time remains on this side.

The PRESIDING OFFICER (Ms. STABENOW). The Senator from Kentucky.

Mr. MCCONNELL. Madam President, let me take my last minute by thanking again my friend and colleague Senator DODD. This has been a happy experience. We can proudly recommend to all Members of the Senate today that they vote in favor of an important new piece of legislation that goes right to the core of what our democracy is all about; that is, the ability to vote.

This legislation will make a positive difference in our country, and is a step forward for our democracy. This bill has been fashioned in a way that I wish we could produce more legislation, which is in a bipartisan fashion.

I enthusiastically support this bill and urge all of my Republican colleagues—in fact, all of our colleagues in the Senate—to proudly vote for this legislation.

I yield back the remainder of my time.

AMENDMENT NO. 2907

The PRESIDING OFFICER. Under the previous order, the Senate will turn to the amendment offered by the Senator from Kansas. There are 2 minutes of debate equally divided.

Mr. ROBERTS. Madam President, what we have before us is an amendment to the election reform bill that is now pending that would basically eliminate the mass mailing requirement to give local and State election officials more time and resources to improve the overall election management and to register voters and to comply with the newly enacted mandates of this bill.

This is an unfunded mandate. This amendment is supported by the National Association of Secretaries of

State. It is cosponsored by the distinguished Senator from Kentucky, Mr. MCCONNELL, and Senators FEINSTEIN and LEVIN. Why? Because the secretaries of state and county election officers have indicated there is no need to put in a mandate to make sure that your voters who are provisional voters must be notified by mail within 30 days. There are other ways you can do this.

Our amendment says to States, if you want to do a mass mailing, you can do that. But at least there is an option here to use a Web site and toll-free numbers and other means of communication that will actually allow a provisional voter to know much faster than the mass mailing whether or not they are properly registered and their vote counted. As a matter of fact, it will enable local county officials and others to make sure a provisional voter is registered, so you can actually make the argument that we will make more progress.

I urge support of the amendment.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, following the Roberts amendment, which will be the normal 15-minute vote, I ask unanimous consent that votes on the Clinton amendment and final passage be 10-minute votes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Madam President, I speak with great reluctance in opposition to the amendment of the Senator from Kansas. I misidentified his State last evening. I apologize.

I appreciate the motivations behind this. Let me first say there is nothing in this bill that creates an unfunded mandate. One of the things we have provided for in this bill is that every requirement must be paid for by the Federal Government. That is very important to us. We realize if we asked otherwise, we would in fact be doing just what the Senator from Kansas has suggested. But that is simply not the case.

We are saying with regard to provisional voters—these are some of the most disadvantaged voters in the sense of where they live and their circumstances, economic and otherwise—if you show up to vote and there is a question about whether or not you have the right to vote, this bill is going to give you the right to cast a provisional ballot. If at the end of that process it is discovered you don't have the right to vote, we are saying that the state and local officials must notify that voter so they don't come back and show up the next time as a provisional voter and their vote doesn't count again.

The underlying bill already allows a state or locality to create an internet site or establish a 1-800 number, and I don't have a problem with that. But don't exclude the requirement that you must specifically notify a voter whose

ballot was not counted. Registrars of voters notify voters on all sorts of things during the year. Saying to a provisional voter, your vote didn't count for the following reasons, this is what you need to do to correct it, is a minor request. This bill truly makes it easier to vote and harder to cheat. We urge the defeat of the Roberts amendment.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to amendment No. 2907. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Indiana (Mr. BAYH) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 56, nays 43, as follows:

[Rollcall Vote No. 63 Leg.]

YEAS—56

Allard	Frist	Murkowski
Allen	Gramm	Nickles
Bennett	Grassley	Reid
Boxer	Gregg	Roberts
Breaux	Hagel	Santorum
Brownback	Hatch	Sessions
Bunning	Helms	Shelby
Burns	Hutchinson	Smith (NH)
Campbell	Hutchison	Smith (OR)
Cleland	Inhofe	Snowe
Cochran	Johnson	Specter
Collins	Kyl	Stabenow
Craig	Levin	Stevens
Crapo	Lincoln	Thomas
DeWine	Lott	Thompson
Domenici	Lugar	Thurmond
Ensign	McCain	Voinovich
Enzi	McConnell	Warner
Feinstein	Miller	

NAYS—43

Akaka	Dodd	Leahy
Baucus	Dorgan	Lieberman
Biden	Durbin	Mikulski
Bingaman	Edwards	Murray
Bond	Feingold	Nelson (FL)
Byrd	Fitzgerald	Nelson (NE)
Cantwell	Graham	Reed
Carnahan	Harkin	Rockefeller
Carper	Hollings	Sarbanes
Chafee	Inouye	Schumer
Clinton	Jeffords	Torricelli
Conrad	Kennedy	Wellstone
Corzine	Kerry	Wyden
Daschle	Kohl	
Dayton	Landrieu	

NOT VOTING—1

Bayh

The amendment (No. 2907) was agreed to.

Mr. REID. Madam President, I move to reconsider the vote, and 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 Nevada.

Mr. REID. So everyone is aware, the next two votes are 10-minute votes.

AMENDMENT NO. 3108

The PRESIDING OFFICER. Under the previous order, there are now 2 minutes evenly divided for debate on amendment No. 3108.

Who yields time?

The Senator from New York.

Mrs. CLINTON. Madam President, this next amendment, called the "leave no vote behind" amendment, aims at making sure the Office of Election Administration has the authority to determine whether or not there are unintentional or intentional human errors. With all due respect to the ranking member, it is not a burdensome provision because election officials are going to have to sort out the ballots to determine whether there are mechanical errors or not.

Secondly, this does not have to be enforced until after January 1, 2010, and so the language that is in the bill provides more than sufficient flexibility for the Office of Election Administration to make a determination as to what benchmark standard to set. If we do not deal with this issue, we are not dealing with the underlying concern that many citizens have, that in some way their vote will not be counted.

I urge our colleagues to give the Office of Election Administration the flexibility and authority to make a determination about this kind of error, along with mechanical errors. They get to set the standard. We do the same thing in most States to try to determine whether there are unintentional errors that a citizen makes in casting a vote, and in the absence of having this provision in the underlying bill we will not have addressed one of the major concerns that citizens have; not only from the 2000 election but from many elections.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Madam President, I strongly oppose the Clinton amendment. This is about the sanctity of the ballot and about the right of voters not to vote in an election if they choose. This amendment mandates a single voter error rate for all machines and all systems of voting.

Each State will be forced to calculate how many voter errors are allowed, divide that number by the number of precincts, and tell poll workers in those precincts how many errors each is allowed; all of this under threat of Department of Justice prosecution.

Those poll workers will closely monitor undervotes and overvotes, and when they approach their maximum allowable number, they will be forced to plead with voters to cast a vote or to change votes they have already made; all of this under threat of Department of Justice prosecution.

I say to my colleagues, especially the Senators from Oregon and Washington, if their home State uses paper ballots, mail-in ballots, or absentee ballots, this amendment will fundamentally alter, if not eliminate, those systems of voting. There is no way to control voter error unless one is face-to-face with the voter.

This is an amendment that essentially unravels this legislation. I strongly urge its defeat.

The PRESIDING OFFICER. The Senator's time has expired.

Under the previous order, the question is on agreeing to amendment No. 3108 offered by the Senator from New York.

Mr. MCCONNELL. 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 legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 48, nays 52, as follows:

[Rollcall Vote No. 64 Leg.]

YEAS—48

Akaka	Durbin	Lieberman
Bayh	Edwards	Lincoln
Biden	Feingold	Mikulski
Bingaman	Feinstein	Miller
Boxer	Graham	Murray
Breaux	Harkin	Nelson (FL)
Byrd	Hollings	Nelson (NE)
Cantwell	Inouye	Reed
Carper	Jeffords	Reid
Cleland	Johnson	Rockefeller
Clinton	Kennedy	Sarbanes
Conrad	Kerry	Schumer
Corzine	Kohl	Stabenow
Daschle	Landrieu	Torricelli
Dayton	Leahy	Wellstone
Dorgan	Levin	Wyden

NAYS—52

Allard	Ensign	Murkowski
Allen	Enzi	Nickles
Baucus	Fitzgerald	Roberts
Bennett	Frist	Santorum
Bond	Gramm	Sessions
Brownback	Grassley	Shelby
Bunning	Gregg	Smith (NH)
Burns	Hagel	Smith (OR)
Campbell	Hatch	Snowe
Carnahan	Helms	Specter
Chafee	Hutchinson	Stevens
Cochran	Hutchison	Thomas
Collins	Inhofe	Thompson
Craig	Kyl	Thurmond
Crapo	Lott	Voinovich
DeWine	Lugar	Warner
Dodd	McCain	
Domenici	McConnell	

The amendment (No. 3108) was rejected.

Mr. DODD. Madam President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DODD. Madam President, I ask unanimous consent that upon the passage of S. 565, the Rules Committee be discharged from further consideration of H.R. 3295, the House companion, and that the Senate then proceed to its consideration; that all after the enacting clause be stricken and the text of S. 565, as amended, be inserted in lieu thereof; that the bill be advanced to third reading and passed; that the title amendment which is at the desk be considered and agreed to, the motion to reconsider be laid upon the table; that the Senate insist on its amendment, request a conference with the House of Representatives on the disagreeing votes of the two Houses, and the Chair be authorized to appoint conferees on the part of the Senate, that the ratio be 3-2; and that this action occur with no further intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. I thank the Chair.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill (S. 565) having been read the third time, the question is, Shall the bill pass?

Mr. DODD. Madam President, 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 legislative clerk called the roll.

The result was announced—yeas 99, nays 1, as follows:

[Rollcall Vote No. 65 Leg.]

YEAS—99

Akaka	Durbin	Lugar
Allard	Edwards	McCain
Allen	Ensign	McConnell
Baucus	Enzi	Mikulski
Bayh	Feingold	Miller
Bennett	Feinstein	Murkowski
Biden	Fitzgerald	Murray
Bingaman	Frist	Nelson (FL)
Bond	Graham	Nelson (NE)
Boxer	Gramm	Nickles
Breaux	Grassley	Reed
Brownback	Gregg	Reid
Bunning	Hagel	Roberts
Byrd	Harkin	Rockefeller
Campbell	Hatch	Santorum
Cantwell	Helms	Sarbanes
Carnahan	Hollings	Schumer
Carper	Hutchinson	Sessions
Chafee	Hutchison	Shelby
Cleland	Inhofe	Smith (NH)
Clinton	Inouye	Smith (OR)
Cochran	Jeffords	Snowe
Collins	Johnson	Specter
Conrad	Kennedy	Stabenow
Corzine	Kerry	Stevens
Craig	Kohl	Thomas
Crapo	Kyl	Thompson
Daschle	Landrieu	Thurmond
Dayton	Leahy	Torricelli
DeWine	Levin	Voinovich
Dodd	Lieberman	Warner
Domenici	Lincoln	Wellstone
Dorgan	Lott	Wyden

NAYS—1

Burns

The bill (S. 565) was passed.

The PRESIDING OFFICER (Mr. ROCKEFELLER). Under the previous order, the Rules Committee is discharged from further consideration of H.R. 3295; all after the enacting clause is stricken, and the text of S. 565, as amended, is inserted in lieu thereof. The bill is read a third time, passed, and the motion to reconsider is laid upon the table. The title amendment is agreed to, and the motion to reconsider is laid upon the table.

Under the previous order, the Senate insists on its amendment, requests a conference with the House on the disagreeing votes of the two Houses, and the Chair is authorized to appoint conferees on the part of the Senate.

The ratio of conferees on the bill will be 3 to 2.

The bill (H.R. 3295), as amended, was passed, as follows:

Resolved, That the bill from the House of Representatives (H.R. 3295) entitled "An Act to establish a program to provide funds to States to replace punch card voting systems,

to establish the Election Assistance Commission to assist in the administration of Federal elections and to otherwise provide assistance with the administration of certain Federal election laws and programs, to establish minimum election administration standards for States and units of local government with responsibility for the administration of Federal elections, and for other purposes," do pass with the following amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) *SHORT TITLE*.—This Act may be cited as the "Martin Luther King, Jr. Equal Protection of Voting Rights Act of 2002".

(b) *TABLE OF CONTENTS*.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—UNIFORM AND NONDISCRIMINATORY ELECTION TECHNOLOGY AND ADMINISTRATION REQUIREMENTS

Sec. 101. Voting systems standards.

Sec. 102. Provisional voting and voting information requirements.

Sec. 103. Computerized statewide voter registration list requirements and requirements for voters who register by mail.

Sec. 104. Enforcement by the Civil Rights Division of the Department of Justice.

Sec. 105. Minimum Standards.

TITLE II—GRANT PROGRAMS

Subtitle A—Uniform and Nondiscriminatory Election Technology and Administration Requirements Grant Program

Sec. 201. Establishment of the Uniform and Nondiscriminatory Election Technology and Administration Requirements Grant Program.

Sec. 202. State plans.

Sec. 203. Application.

Sec. 204. Approval of applications.

Sec. 205. Authorized activities.

Sec. 206. Payments.

Sec. 207. Audits and examinations of States and localities.

Sec. 208. Reports to Congress and the Attorney General.

Sec. 209. Authorization of appropriations.

Sec. 210. Effective date.

Subtitle B—Federal Election Reform Incentive Grant Program

Sec. 211. Establishment of the Federal Election Reform Incentive Grant Program.

Sec. 212. Application.

Sec. 213. Approval of applications.

Sec. 214. Authorized activities.

Sec. 215. Payments; Federal share.

Sec. 216. Audits and examinations of States and localities.

Sec. 217. Reports to Congress and the Attorney General.

Sec. 218. Authorization of appropriations.

Sec. 219. Effective date.

Subtitle C—Federal Election Accessibility Grant Program

Sec. 221. Establishment of the Federal Election Accessibility Grant Program.

Sec. 222. Application.

Sec. 223. Approval of applications.

Sec. 224. Authorized activities.

Sec. 225. Payments; Federal share.

Sec. 226. Audits and examinations of States and localities.

Sec. 227. Reports to Congress and the Attorney General.

Sec. 228. Authorization of appropriations.

Sec. 229. Effective date.

Subtitle D—National Student/Parent Mock Election

Sec. 231. National Student/Parent Mock Election.

Sec. 232. Authorization of appropriations.

TITLE III—ADMINISTRATION

Subtitle A—Election Administration Commission

Sec. 301. Establishment of the Election Administration Commission.

Sec. 302. Membership of the Commission.

Sec. 303. Duties of the Commission.

Sec. 304. Meetings of the Commission.

Sec. 305. Powers of the Commission.

Sec. 306. Commission personnel matters.

Sec. 307. Authorization of appropriations.

Subtitle B—Transition Provisions

Sec. 311. Equal Protection of Voting Rights Act of 2001.

Sec. 312. Federal Election Campaign Act of 1971.

Sec. 313. National Voter Registration Act of 1993.

Sec. 314. Transfer of property, records, and personnel.

Sec. 315. Coverage of Election Administration Commission under certain laws and programs.

Sec. 316. Effective date; transition.

Subtitle C—Advisory Committee on Electronic Voting and the Electoral Process

Sec. 321. Establishment of Committee.

Sec. 322. Duties of the Committee.

Sec. 323. Powers of the Committee.

Sec. 324. Committee personnel matters.

Sec. 325. Termination of the Committee.

Sec. 326. Authorization of appropriations.

TITLE IV—UNIFORMED SERVICES ELECTION REFORM

Sec. 401. Standard for invalidation of ballots cast by absent uniformed services voters in Federal elections.

Sec. 402. Maximization of access of recently separated uniformed services voters to the polls.

Sec. 403. Prohibition of refusal of voter registration and absentee ballot applications on grounds of early submission.

Sec. 404. Distribution of Federal military voter laws to the States.

Sec. 405. Effective dates.

Sec. 406. Study and report on permanent registration of overseas voters; distribution of overseas voting information by a single State office; study and report on expansion of single State office duties.

Sec. 407. Report on absentee ballots transmitted and received after general elections.

Sec. 408. Other requirements to promote participation of overseas and absent uniformed services voters.

Sec. 409. Study and report on the development of a standard oath for use with overseas voting materials.

Sec. 410. Study and report on prohibiting notarization requirements.

TITLE V—CRIMINAL PENALTIES; MISCELLANEOUS

Sec. 501. Review and report on adequacy of existing electoral fraud statutes and penalties.

Sec. 502. Other criminal penalties.

Sec. 503. Use of social security numbers for voter registration and election administration.

Sec. 504. Delivery of mail from overseas preceding Federal elections.

Sec. 505. State responsibility to guarantee military voting rights.

Sec. 506. Sense of the Senate regarding State and local input into changes made to the electoral process.

Sec. 507. Study and report on free absentee ballot postage

Sec. 508. Help America vote college program

Sec. 509. Relationship to other laws.

Sec. 510. Voters with disabilities.

Sec. 511. Election day holiday study.

Sec. 512. Sense of the Senate on compliance with election technology and administration requirements.

Sec. 513. Broadcasting false election information.

Sec. 514. Sense of the Senate regarding changes made to the electoral process and how such changes impact States.

TITLE I—UNIFORM AND NONDISCRIMINATORY ELECTION TECHNOLOGY AND ADMINISTRATION REQUIREMENTS

SEC. 101. VOTING SYSTEMS STANDARDS.

(a) **REQUIREMENTS.**—Each voting system used in an election for Federal office shall meet the following requirements:

(1) **IN GENERAL.**—

(A) Except as provided in subparagraph (B), the voting system (including any lever voting system, optical scanning voting system, or direct recording electronic system) shall—

(i) permit the voter to verify the votes selected by the voter on the ballot before the ballot is cast and counted;

(ii) provide the voter with the opportunity to change the ballot or correct any error before the ballot is cast and counted (including the opportunity to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error); and

(iii) if the voter selects votes for more than 1 candidate for a single office, the voting system shall—

(I) notify the voter that the voter has selected more than 1 candidate for a single office on the ballot;

(II) notify the voter before the ballot is cast and counted of the effect of casting multiple votes for the office; and

(III) provide the voter with the opportunity to correct the ballot before the ballot is cast and counted.

(B) A State or locality that uses a paper ballot voting system, a punchcard voting system, or a central count voting system (including mail-in absentee ballots or mail-in ballots), may meet the requirements of subparagraph (A) by—

(i) establishing a voter education program specific to that voting system that notifies each voter of the effect of casting multiple votes for an office; and

(ii) providing the voter with instructions on how to correct the ballot before it is cast and counted (including instructions on how to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error).

(C) The voting system shall ensure that any notification required under this paragraph preserves the privacy of the voter and the confidentiality of the ballot.

(2) **AUDIT CAPACITY.**—

(A) **IN GENERAL.**—The voting system shall produce a record with an audit capacity for such system.

(B) **MANUAL AUDIT CAPACITY.**—

(i) **PERMANENT PAPER RECORD.**—The voting system shall produce a permanent paper record with a manual audit capacity for such system.

(ii) **CORRECTION OF ERRORS.**—The voting system shall provide the voter with an opportunity to change the ballot or correct any error before the permanent paper record is produced.

(iii) **OFFICIAL RECORD FOR RECOUNTS.**—The printed record produced under subparagraph (A) shall be available as an official record for any recount conducted with respect to any election for Federal office in which the system is used.

(3) **ACCESSIBILITY FOR INDIVIDUALS WITH DISABILITIES.**—The voting system shall—

(A) be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters;

(B) satisfy the requirement of subparagraph (A) through the use of at least 1 direct recording electronic voting system or other voting system equipped for individuals with disabilities at each polling place; and

(C) meet the voting system standards for disability access if purchased with funds made available under title II on or after January 1, 2007.

(4) **MULTILINGUAL VOTING MATERIALS.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B), the voting system shall provide alternative language accessibility—

(i) with respect to a language other than English in a State or jurisdiction if, as determined by the Director of the Bureau of the Census—

(I)(aa) at least 5 percent of the total number of voting-age citizens who reside in such State or jurisdiction speak that language as their first language and who are limited-English proficient; or

(bb) there are at least 10,000 voting-age citizens who reside in that jurisdiction who speak that language as their first language and who are limited-English proficient; and

(II) the illiteracy rate of the group of citizens who speak that language is higher than the national illiteracy rate; or

(ii) with respect to a language other than English that is spoken by Native American or Alaskan native citizens in a jurisdiction that contains all or any part of an Indian reservation if, as determined by the Director of the Bureau of the Census—

(I) at least 5 percent of the total number of citizens on the reservation are voting-age Native American or Alaskan native citizens who speak that language as their first language and who are limited-English proficient; and

(II) the illiteracy rate of the group of citizens who speak that language is higher than the national illiteracy rate.

(B) **EXCEPTIONS.**—

(i) If a State meets the criteria of item (aa) of subparagraph (A)(i)(I) with respect to a language, a jurisdiction of that State shall not be required to provide alternative language accessibility under this paragraph with respect to that language if—

(I) less than 5 percent of the total number of voting-age citizens who reside in that jurisdiction speak that language as their first language and are limited-English proficient; and

(II) the jurisdiction does not meet the criteria of item (bb) of such subparagraph with respect to that language.

(ii) A State or locality that uses a lever voting system and that would be required to provide alternative language accessibility under the preceding provisions of this paragraph with respect to an additional language that was not included in the voting system of the State or locality before the date of enactment of this Act may meet the requirements of this paragraph with respect to such additional language by providing alternative language accessibility through the voting systems used to meet the requirement of paragraph (3)(B) if—

(I) it is not practicable to add the alternative language to the lever voting system or the addition of the language would cause the voting system to become more confusing or difficult to read for other voters;

(II) the State or locality has filed a request for a waiver with the Office of Election Administration of the Federal Election Commission or, after the transition date (as defined in section 316(a)(2)), with the Election Administration Commission, that describes the need for the waiver and how the voting system under paragraph (3)(B) would provide alternative language accessibility; and

(III) the Office of Election Administration or the Election Administration Commission (as appropriate) has approved the request filed under subclause (II).

(5) **ERROR RATES.**—The error rate of the voting system in counting ballots (determined by taking

into account only those errors which are attributable to the voting system and not attributable to an act of the voter) shall not exceed the error rate standards established under the voting systems standards issued and maintained by the Director of the Office of Election Administration of the Federal Election Commission (as revised by the Director of such Office under subsection (c)).

(b) **VOTING SYSTEM DEFINED.**—In this section, the term “voting system” means—

(1) the total combination of mechanical, electromechanical, or electronic equipment (including the software, firmware, and documentation required to program, control, and support the equipment) that is used—

(A) to define ballots;

(B) to cast and count votes;

(C) to report or display election results; and

(D) to maintain and produce any audit trail information;

(2) the practices and associated documentation used—

(A) to identify system components and versions of such components;

(B) to test the system during its development and maintenance;

(C) to maintain records of system errors and defects;

(D) to determine specific system changes to be made to a system after the initial qualification of the system; and

(E) to make available any materials to the voter (such as notices, instructions, forms, or paper ballots).

(c) **ADMINISTRATION BY THE OFFICE OF ELECTION ADMINISTRATION.**—

(1) **IN GENERAL.**—Not later than January 1, 2004, the Director of the Office of Election Administration of the Federal Election Commission, in consultation with the Architectural and Transportation Barriers Compliance Board (as established under section 502 of the Rehabilitation Act of 1973 (29 U.S.C. 792)) and the Director of the National Institute of Standards and Technology, shall promulgate standards revising the voting systems standards issued and maintained by the Director of such Office so that such standards meet the requirements established under subsection (a).

(2) **QUADRENNIAL REVIEW.**—The Director of the Office of Election Administration of the Federal Election Commission, in consultation with the Architectural and Transportation Barriers Compliance Board and the Director of the National Institute of Standards and Technology, shall review the voting systems standards revised under paragraph (1) no less frequently than once every 4 years.

(d) **CONSTRUCTION.**—Nothing in this section shall require a jurisdiction to change the voting system or systems (including paper balloting systems, including in-person, absentee, and mail-in paper balloting systems, lever machine systems, punchcard systems, optical scanning systems, and direct recording electronic systems) used in an election in order to be in compliance with this Act.

(e) **EFFECTIVE DATE.**—Each State and locality shall be required to comply with the requirements of this section on and after January 1, 2006.

SEC. 102. PROVISIONAL VOTING AND VOTING INFORMATION REQUIREMENTS.

(a) **REQUIREMENTS.**—If an individual declares that such individual is a registered voter in the jurisdiction in which the individual desires to vote and that the individual is eligible to vote in an election for Federal office, but the name of the individual does not appear on the official list of eligible voters for the polling place, or an election official asserts that the individual is not eligible to vote, such individual shall be permitted to cast a provisional ballot as follows:

(1) An election official at the polling place shall notify the individual that the individual may cast a provisional ballot in that election.

(2) The individual shall be permitted to cast a provisional ballot at that polling place upon the

execution of a written affirmation by the individual before an election official at the polling place stating that the individual is—

(A) a registered voter in the jurisdiction in which the individual desires to vote; and
(B) eligible to vote in that election.

(3) An election official at the polling place shall transmit the ballot cast by the individual or voter information contained in the written affirmation executed by the individual under paragraph (2) to an appropriate State or local election official for prompt verification under paragraph (4).

(4) If the appropriate State or local election official to whom the ballot or voter information is transmitted under paragraph (3) determines that the individual is eligible under State law to vote in the jurisdiction, the individual's provisional ballot shall be counted as a vote in that election.

(5) At the time that an individual casts a provisional ballot, the appropriate State or local election official shall give the individual written information that states that any individual who casts a provisional ballot will be able to ascertain through a free access system (such as a toll-free telephone number or an Internet website) whether the vote was counted, and, if the vote was not counted, the reason that the vote was not counted.

(6) The appropriate State or local election official shall establish a free access system (such as a toll-free telephone number or an Internet website) that any individual who casts a provisional ballot may access to discover whether the vote of that individual was counted, and, if the vote was not counted, the reason that the vote was not counted.

States described in section 4(b) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-2(b)) may meet the requirements of this subsection using voter registration procedures established under applicable State law. The appropriate State or local official shall establish and maintain reasonable procedures necessary to protect the security, confidentiality, and integrity of personal information collected, stored, or otherwise used by the free access system established under paragraph (6)(B). Access to information about an individual provisional ballot shall be restricted to the individual who cast the ballot.

(b) VOTING INFORMATION REQUIREMENTS.—

(1) PUBLIC POSTING ON ELECTION DAY.—The appropriate State or local election official shall cause voting information to be publicly posted at each polling place on the day of each election for Federal office.

(2) VOTING INFORMATION DEFINED.—In this section, the term “voting information” means—
(A) a sample version of the ballot that will be used for that election;

(B) information regarding the date of the election and the hours during which polling places will be open;

(C) instructions on how to vote, including how to cast a vote and how to cast a provisional ballot;

(D) instructions for mail-in registrants and first-time voters under section 103(b); and

(E) general information on voting rights under applicable Federal and State laws, including information on the right of an individual to cast a provisional ballot and instructions on how to contact the appropriate officials if these rights are alleged to have been violated.

(c) VOTERS WHO VOTE AFTER THE POLLS CLOSE.—Any individual who votes in an election for Federal office for any reason, including a Federal or State court order, after the time set for closing the polls by a State law in effect 10 days before the date of that election may only vote in that election by casting a provisional ballot under subsection (a).

(d) ADMINISTRATION BY THE CIVIL RIGHTS DIVISION.—Not later than January 1, 2003, the Assistant Attorney General in charge of the Civil Rights Division of the Department of Justice

shall promulgate such guidelines as are necessary to implement the requirements of subsection (a).

(e) EFFECTIVE DATE.—

(1) PROVISIONAL VOTING.—Each State and locality shall be required to comply with the requirements of subsection (a) on and after January 1, 2004.

(2) VOTING INFORMATION.—Each State and locality shall be required to comply with the requirements of subsection (b) on and after the date of enactment of this Act.

SEC. 103. COMPUTERIZED STATEWIDE VOTER REGISTRATION LIST REQUIREMENTS AND REQUIREMENTS FOR VOTERS WHO REGISTER BY MAIL.

(a) COMPUTERIZED STATEWIDE VOTER REGISTRATION LIST REQUIREMENTS.—

(1) IMPLEMENTATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), each State, acting through the chief State election official, shall implement an interactive computerized statewide voter registration list that contains the name and registration information of every legally registered voter in the State and assigns a unique identifier to each legally registered voter in the State (in this subsection referred to as the “computerized list”).

(B) EXCEPTION.—The requirement under subparagraph (A) shall not apply to a State in which, under a State law in effect continuously on and after the date of enactment of this Act, there is no voter registration requirement for individuals in the State with respect to elections for Federal office.

(2) ACCESS.—The computerized list shall be accessible to each State and local election official in the State.

(3) COMPUTERIZED LIST MAINTENANCE.—

(A) IN GENERAL.—The appropriate State or local election official shall perform list maintenance with respect to the computerized list on a regular basis as follows:

(i) If an individual is to be removed from the computerized list, such individual shall be removed in accordance with the provisions of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.), including subsections (a)(4), (c)(2), (d), and (e) of section 8 of such Act (42 U.S.C. 1973gg-6).

(ii) For purposes of removing names of ineligible voters from the official list of eligible voters—

(I) under section 8(a)(3)(B) of such Act (42 U.S.C. 1973gg-6(a)(3)(B)), the State shall coordinate the computerized list with State agency records on felony status; and

(II) by reason of the death of the registrant under section 8(a)(4)(A) of such Act (42 U.S.C. 1973gg-6(a)(4)(A)), the State shall coordinate the computerized list with State agency records on death.

(iii) Notwithstanding the preceding provisions of this subparagraph, if a State is described in section 4(b) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-2(b)), that State shall remove the names of ineligible voters from the computerized list in accordance with State law.

(B) CONDUCT.—The list maintenance performed under subparagraph (A) shall be conducted in a manner that ensures that—

(i) the name of each registered voter appears in the computerized list;

(ii) only voters who are not registered or who are not eligible to vote are removed from the computerized list; and

(iii) duplicate names are eliminated from the computerized list.

(4) TECHNOLOGICAL SECURITY OF COMPUTERIZED LIST.—The appropriate State or local official shall provide adequate technological security measures to prevent the unauthorized access to the computerized list established under this section.

(5) INTERACTION WITH FEDERAL INFORMATION.—

(A) ACCESS TO FEDERAL INFORMATION.—

(i) IN GENERAL.—Notwithstanding any other provision of law, the Commissioner of Social Security shall provide, upon request from a State or locality maintaining a computerized centralized list implemented under paragraph (1), only such information as is necessary to determine the eligibility of an individual to vote in such State or locality under the law of the State. Any State or locality that receives information under this clause may only share such information with election officials.

(ii) PROCEDURE.—The information under clause (i) shall be provided in such place and such manner as the Commissioner determines appropriate to protect and prevent the misuse of information.

(B) APPLICABLE INFORMATION.—For purposes of this subsection, the term “applicable information” means information regarding whether—

(i) the name and social security number of an individual provided to the Commissioner match the information contained in the Commissioner's records; and

(ii) such individual is shown on the records of the Commissioner as being deceased.

(C) EXCEPTION.—Subparagraph (A) shall not apply to any request for a record of an individual if the Commissioner determines there are exceptional circumstances warranting an exception (such as safety of the individual or interference with an investigation).

(b) REQUIREMENTS FOR VOTERS WHO REGISTER BY MAIL.—

(1) IN GENERAL.—Notwithstanding section 6(c) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4(c)) and subject to paragraph (3), a State shall require an individual to meet the requirements of paragraph (2) if—

(A) the individual registered to vote in a jurisdiction by mail; and

(B)(i) the individual has not previously voted in an election for Federal office in the State; or

(ii) the individual has not previously voted in such an election in the jurisdiction and the jurisdiction is located in a State that does not have a computerized list that complies with the requirements of section 103(a).

(2) REQUIREMENTS.—

(A) IN GENERAL.—An individual meets the requirements of this paragraph if the individual—

(i) in the case of an individual who votes in person—

(I) presents to the appropriate State or local election official a current and valid photo identification; or

(II) presents to the appropriate State or local election official a copy of a current utility bill, bank statement, Government check, paycheck, or other Government document that shows the name and address of the voter; or

(ii) in the case of an individual who votes by mail, submits with the ballot—

(I) a copy of a current and valid photo identification; or

(II) a copy of a current utility bill, bank statement, Government check, paycheck, or other Government document that shows the name and address of the voter.

(B) FAIL-SAFE VOTING.—

(i) IN PERSON.—An individual who desires to vote in person, but who does not meet the requirements of subparagraph (A)(i), may cast a provisional ballot under section 102(a).

(ii) BY MAIL.—An individual who desires to vote by mail but who does not meet the requirements of subparagraph (A)(ii) may cast such a ballot by mail and the ballot shall be counted as a provisional ballot in accordance with section 102(a).

(3) INAPPLICABILITY.—Paragraph (1) shall not apply in the case of a person—

(A) who registers to vote by mail under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4) and submits as part of such registration either—

(i) a copy of a current valid photo identification; or

(ii) a copy of a current utility bill, bank statement, Government check, paycheck, or Government document that shows the name and address of the voter;

(B)(i) who registers to vote by mail under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4) and submits with such registration either—

(I) a driver's license number; or

(II) at least the last 4 digits of the individual's social security number; and

(ii) with respect to whom a State or local election official certifies that the information submitted under clause (i) matches an existing State identification record bearing the same number, name and date of birth as provided in such registration; or

(C) who is—

(i) entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-1 et seq.);

(ii) provided the right to vote otherwise than in person under section 3(b)(2)(B)(ii) of the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee-1(b)(2)(B)(ii)); or

(iii) entitled to vote otherwise than in person under any other Federal law.

(4) **CONTENTS OF MAIL-IN REGISTRATION FORM.**—The mail voter registration form developed under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4) shall include:

(A) The question "Are you a citizen of the United States of America?" and boxes for the applicant to check to indicate whether the applicant is or is not a citizen of the United States.

(B) The question "Will you be 18 years of age on or before election day?" and boxes for the applicant to check to indicate whether or not the applicant will be 18 or older on election day.

(C) The statement "If you checked 'no' in response to either of these questions, do not complete this form".

(5) **CONSTRUCTION.**—Nothing in this subsection shall be construed to require a State that was not required to comply with a provision of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.) before the date of enactment of this Act to comply with such a provision after such date.

(c) **ADMINISTRATION BY THE CIVIL RIGHTS DIVISION.**—Not later than October 1, 2003, the Assistant Attorney General in charge of the Civil Rights Division of the Department of Justice shall promulgate such guidelines as are necessary to implement the requirements of subsection (a).

(d) **EFFECTIVE DATE.**—

(1) **COMPUTERIZED STATEWIDE VOTER REGISTRATION LIST REQUIREMENTS.**—Each State and locality shall be required to comply with the requirements of subsection (a) on and after January 1, 2004.

(2) **REQUIREMENT FOR VOTERS WHO REGISTER BY MAIL.**—

(A) **IN GENERAL.**—Each State and locality shall be required to comply with the requirements of subsection (b) on and after January 1, 2004, and shall be prepared to receive registration materials submitted by individuals described in subparagraph (B) on and after the date described in such subparagraph.

(B) **APPLICABILITY WITH RESPECT TO INDIVIDUALS.**—The provisions of section (b) shall apply to any individual who registers to vote on or after January 1, 2003.

SEC. 104. ENFORCEMENT BY THE CIVIL RIGHTS DIVISION OF THE DEPARTMENT OF JUSTICE.

(a) **IN GENERAL.**—Subject to subsection (b), the Attorney General, acting through the Assistant Attorney General in charge of the Civil Rights Division of the Department of Justice, may bring a civil action in an appropriate district court for such declaratory or injunctive relief as may be necessary to carry out this title.

(b) **SAFE HARBOR.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), if a State or locality receives funds

under a grant program under subtitle A or B of title II for the purpose of meeting a requirement under section 101, 102, or 103, such State or locality shall be deemed to be in compliance with such requirement until January 1, 2010, and no action may be brought under this Act against such State or locality on the basis that the State or locality is not in compliance with such requirement before such date.

(2) **EXCEPTION.**—The safe harbor provision under paragraph (1) shall not apply with respect to the requirement described in section 101(a)(3).

(c) **RELATION TO OTHER LAWS.**—The remedies established by this section are in addition to all other rights and remedies provided by law.

SEC. 105. MINIMUM STANDARDS.

The requirements established by this title are minimum requirements and nothing in this title shall be construed to prevent a State from establishing election technology and administration requirements, that are more strict than the requirements established under this title, so long as such State requirements are not inconsistent with the Federal requirements under this title or any law described in section 509.

TITLE II—GRANT PROGRAMS

Subtitle A—Uniform and Nondiscriminatory Election Technology and Administration Requirements Grant Program

SEC. 201. ESTABLISHMENT OF THE UNIFORM AND NONDISCRIMINATORY ELECTION TECHNOLOGY AND ADMINISTRATION REQUIREMENTS GRANT PROGRAM.

(a) **IN GENERAL.**—There is established a Uniform and Nondiscriminatory Election Technology and Administration Requirements Grant Program under which the Attorney General, subject to the general policies and criteria for the approval of applications established under section 204 and in consultation with the Federal Election Commission and the Architectural and Transportation Barriers Compliance Board (as established under section 502 of the Rehabilitation Act of 1973 (29 U.S.C. 792)), is authorized to make grants to States and localities to pay the costs of the activities described in section 205.

(b) **ACTION THROUGH OFFICE OF JUSTICE PROGRAMS AND CIVIL RIGHTS DIVISION.**—In carrying out this subtitle, the Attorney General shall act through the Assistant Attorney General in charge of the Office of Justice Programs of the Department of Justice and the Assistant Attorney General in charge of the Civil Rights Division of that Department.

SEC. 202. STATE PLANS.

(a) **IN GENERAL.**—Each State that desires to receive a grant under this subtitle shall develop a State plan, in consultation with State and local election officials of that State, that provides for each of the following:

(1) **UNIFORM AND NONDISCRIMINATORY ELECTION TECHNOLOGY AND ADMINISTRATION REQUIREMENTS.**—A description of how the State will use the funds made available under this subtitle to meet each of the following requirements:

(A) The voting system standards under section 101.

(B) The provisional voting requirements under section 102.

(C) The computerized statewide voter registration list requirements under section 103(a), including a description of—

(i) how State and local election officials will ensure the accuracy of the list of eligible voters in the State to ensure that only registered voters appear in such list; and

(ii) the precautions that the State will take to prevent the removal of eligible voters from the list.

(D) The requirements for voters who register by mail under section 103(b), including the steps that the State will take to ensure—

(i) the accuracy of mail-in and absentee ballots; and

(ii) that the use of mail-in and absentee ballots does not result in duplicate votes.

(2) **IDENTIFICATION, DETERRENCE, AND INVESTIGATION OF VOTING FRAUD.**—An assessment of the susceptibility of elections for Federal office in the State to voting fraud and a description of how the State intends to identify, deter, and investigate such fraud.

(3) **COMPLIANCE WITH EXISTING FEDERAL LAW.**—Assurances that the State will comply with existing Federal laws, as such laws relate to the provisions of this Act, including the following:

(A) The Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.), including sections 4(f)(4) and 203 of such Act (42 U.S.C. 1973b(f)(4) and 1973aa-1a).

(B) The Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee et seq.).

(C) The Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.).

(D) The National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.).

(E) The Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.).

(4) **TIMETABLE.**—A timetable for meeting the elements of the State plan.

(b) **AVAILABILITY OF STATE PLANS FOR REVIEW AND COMMENT.**—A State shall make the State plan developed under subsection (a) available for public review and comment before the submission of an application under section 203(a).

SEC. 203. APPLICATION.

(a) **IN GENERAL.**—Each State or locality that desires to receive a grant under this subtitle shall submit an application to the Attorney General at such time and in such manner as the Attorney General may require, and containing the information required under subsection (b) and such other information as the Attorney General may require.

(b) **CONTENTS.**—

(1) **STATES.**—Each application submitted by a State shall contain the State plan developed under section 202 and a description of how the State proposes to use funds made available under this subtitle to implement such State plan.

(2) **LOCALITIES.**—Each application submitted by a locality shall contain a description of how the locality proposes to use the funds made available under this subtitle in a manner that is consistent with the State plan developed under section 202.

(c) **SAFE HARBOR.**—No action may be brought under this Act against a State or locality on the basis of any information contained in the application submitted under subsection (a), including any information contained in the State plan developed under section 202.

SEC. 204. APPROVAL OF APPLICATIONS.

The Attorney General shall establish general policies and criteria with respect to the approval of applications submitted by States and localities under section 203(a) (including a review of State plans developed under section 202), the awarding of grants under this subtitle, and the use of assistance made available under this subtitle.

SEC. 205. AUTHORIZED ACTIVITIES.

A State or locality may use grant payments received under this subtitle for any of the following purposes:

(1) To implement voting system standards that meet the requirements of section 101.

(2) To provide for provisional voting that meets the requirements of section 102(a) and to meet the voting information requirements under section 102(b).

(3) To establish a computerized statewide voter registration list that meets the requirements of section 103(a) and to meet the requirements for voters who register by mail under section 103(b).

SEC. 206. PAYMENTS.

(a) **PAYMENTS.**—

(1) **IN GENERAL.**—Subject to paragraph (2), the Attorney General shall pay to each State having an application approved under section 203 the cost of the activities described in that application.

(2) **INITIAL PAYMENT AMOUNT.**—The Attorney General shall pay to each State that submits an application under section 203 an amount equal to 0.5 percent of the amount appropriated under section 209 for the fiscal year during which such application is submitted to be used by such State for the activities authorized under section 205.

(b) **RETROACTIVE PAYMENTS.**—The Attorney General may make retroactive payments to States and localities having an application approved under section 203 for any costs for election technology or administration that meets a requirement of section 101, 102, or 103 that were incurred during the period beginning on January 1, 2001, and ending on the date on which such application was approved under such section. A State or locality that is engaged in a multi-year contract entered into prior to January 1, 2001, is eligible to apply for a grant under section 203 for payments made on or after January 1, 2001, pursuant to that contract.

(c) **PROTECTION AND ADVOCACY SYSTEMS.**—

(1) **IN GENERAL.**—In addition to any other payments made under this section, the Attorney General shall pay the protection and advocacy system (as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15002)) of each State to ensure full participation in the electoral process for individuals with disabilities, including registering to vote, casting a vote and accessing polling places. In providing such services, protection and advocacy systems shall have the same general authorities as they are afforded under part C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15041 et seq.).

(2) **MINIMUM GRANT AMOUNT.**—The minimum amount of each grant to a protection and advocacy system shall be determined and allocated as set forth in subsections (c)(3), (c)(4), (c)(5), (e), and (g) of section 509 of the Rehabilitation Act of 1973 (29 U.S.C. 794e), except that the amount of the grants to systems referred to in subsections (c)(3)(B) and (c)(4)(B) of that section shall be not less than \$70,000 and \$35,000, respectively.

SEC. 207. AUDITS AND EXAMINATIONS OF STATES AND LOCALITIES.

(a) **RECORDKEEPING REQUIREMENT.**—Each recipient of a grant under this subtitle shall keep such records as the Attorney General, in consultation with the Federal Election Commission, shall prescribe.

(b) **AUDITS AND EXAMINATIONS.**—The Attorney General and the Comptroller General, or any authorized representative of the Attorney General or the Comptroller General, may audit or examine any recipient of a grant under this subtitle and shall, for the purpose of conducting an audit or examination, have access to any record of a recipient of a grant under this subtitle that the Attorney General or the Comptroller General determines may be related to the grant.

SEC. 208. REPORTS TO CONGRESS AND THE ATTORNEY GENERAL.

(a) **REPORTS TO CONGRESS.**—

(1) **IN GENERAL.**—Not later than January 31, 2003, and each year thereafter, the Attorney General shall submit to the President and Congress a report on the grant program established under this subtitle for the preceding year.

(2) **CONTENTS.**—Each report submitted under paragraph (1) shall contain the following:

(A) A description and analysis of any activities funded by a grant awarded under this subtitle.

(B) Any recommendation for legislative or administrative action that the Attorney General considers appropriate.

(b) **REPORTS TO THE ATTORNEY GENERAL.**—The Attorney General shall require each recipient of a grant under this subtitle to submit reports to the Attorney General at such time, in such manner, and containing such information as the Attorney General considers appropriate.

SEC. 209. AUTHORIZATION OF APPROPRIATIONS.

(a) **IN GENERAL.**—There are authorized to be appropriated to carry out the provisions of this subtitle the following amounts:

(1) For fiscal year 2003, \$1,000,000,000.

(2) For fiscal year 2004, \$1,300,000,000.

(3) For fiscal year 2005, \$500,000,000.

(4) For fiscal year 2006, \$200,000,000.

(5) For each subsequent fiscal year, such sums as may be necessary.

(b) **PROTECTION AND ADVOCACY SYSTEMS.**—In addition to any other amounts authorized to be appropriated under this section, there are authorized to be appropriated \$10,000,000 for each of the fiscal years 2003, 2004, 2005, and 2006, and for each subsequent fiscal year such sums as may be necessary, for the purpose of making payments under section 206(c): Provided, That none of the funds provided by this subsection shall be used to commence any litigation related to election-related disability access; notwithstanding the general authorities of the protection and advocacy systems are otherwise afforded under part C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15041 et seq.).

(c) **AVAILABILITY.**—Any amounts appropriated pursuant to the authority of this section shall remain available until expended.

SEC. 210. EFFECTIVE DATE.

The Attorney General shall establish the general policies and criteria for the approval of applications under section 204 in a manner that ensures that the Attorney General is able to approve applications not later than October 1, 2002.

Subtitle B—Federal Election Reform Incentive Grant Program

SEC. 211. ESTABLISHMENT OF THE FEDERAL ELECTION REFORM INCENTIVE GRANT PROGRAM.

(a) **IN GENERAL.**—There is established a Federal Election Reform Incentive Grant Program under which the Attorney General, subject to the general policies and criteria for the approval of applications established under section 213(a) and in consultation with the Federal Election Commission and the Architectural and Transportation Barriers Compliance Board (as established under section 502 of the Rehabilitation Act of 1973 (29 U.S.C. 792)), is authorized to make grants to States and localities to pay the costs of the activities described in section 214.

(b) **ACTION THROUGH OFFICE OF JUSTICE PROGRAMS AND CIVIL RIGHTS DIVISION.**—In carrying out this subtitle, the Attorney General shall act through—

(1) the Assistant Attorney General in charge of the Office of Justice Programs of the Department of Justice; and

(2) the Assistant Attorney General in charge of the Civil Rights Division of the Department of Justice (in this subtitle referred to as the “Assistant Attorney General for Civil Rights”).

SEC. 212. APPLICATION.

(a) **IN GENERAL.**—Each State or locality that desires to receive a grant under this subtitle shall submit an application to the Attorney General at such time, in such manner, and containing such information as the Attorney General shall require, consistent with the provisions of this section.

(b) **CONTENTS.**—Each application submitted under subsection (a) shall—

(1) describe the activities for which assistance under this section is sought;

(2) contain a request for certification by the Assistant Attorney General for Civil Rights described in subsection (c);

(3) provide assurances that the State or locality will pay the non-Federal share of the cost of the activities for which assistance is sought from non-Federal sources; and

(4) provide such additional assurances as the Attorney General determines to be essential to ensure compliance with the requirements of this subtitle.

(c) **REQUEST FOR CERTIFICATION BY THE CIVIL RIGHTS DIVISION.**—

(1) **COMPLIANCE WITH CURRENT FEDERAL ELECTION LAW.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B), each request for certification described in subsection (b)(2) shall contain a specific and detailed demonstration that the State or locality is in compliance with each of the following laws, as such laws relate to the provisions of this Act:

(i) The Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.), including sections 4(f)(4) and 203 of such Act (42 U.S.C. 1973b(f)(4) and 1973aa-1a).

(ii) The Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee et seq.).

(iii) The Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.).

(iv) The National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.).

(v) The Americans with Disabilities Act of 1990 (42 U.S.C. 1994 et seq.).

(vi) The Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.).

(B) **APPLICANTS UNABLE TO MEET REQUIREMENTS.**—Each State or locality that, at the time it applies for a grant under this subtitle, does not demonstrate that it meets each requirement described in subparagraph (A), shall submit to the Attorney General a detailed and specific demonstration of how the State or locality intends to use grant funds to meet each such requirement.

(2) **UNIFORM AND NONDISCRIMINATORY REQUIREMENTS FOR ELECTION TECHNOLOGY AND ADMINISTRATION.**—In addition to the demonstration required under paragraph (1), each request for certification described in subsection (b)(2) shall contain a specific and detailed demonstration that the proposed use of grant funds by the State or locality is not inconsistent with the requirements under section 101, 102, or 103.

(d) **SAFE HARBOR.**—No action may be brought under this Act against a State or locality on the basis of any information contained in the application submitted under subsection (a), including any information contained in the request for certification described in subsection (c).

SEC. 213. APPROVAL OF APPLICATIONS.

(a) **IN GENERAL.**—Subject to subsection (b), the Attorney General shall establish general policies and criteria for the approval of applications submitted under section 212(a).

(b) **CERTIFICATION PROCEDURE.**—

(1) **IN GENERAL.**—The Attorney General may not approve an application of a State or locality submitted under section 212(a) unless the Attorney General has received a certification from the Assistant Attorney General for Civil Rights under paragraph (4) with respect to such State or locality.

(2) **TRANSMITTAL OF REQUEST.**—Upon receipt of the request for certification submitted under section 212(b)(2), the Attorney General shall transmit such request to the Assistant Attorney General for Civil Rights.

(3) **CERTIFICATION; NONCERTIFICATION.**—

(A) **CERTIFICATION.**—If the Assistant Attorney General for Civil Rights finds that the request for certification demonstrates that—

(i) a State or locality meets the requirements of subparagraph (A) of section 212(c)(1), or that a State or locality has provided a detailed and specific demonstration of how it will use funds received under this section to meet such requirements under subparagraph (B) of such section; and

(ii) the proposed use of grant funds by the State or locality meets the requirements of section 212(c)(2), the Assistant Attorney General for Civil Rights shall certify that the State or locality is eligible to receive a grant under this subtitle.

(B) **NONCERTIFICATION.**—If the Assistant Attorney General for Civil Rights finds that the request for certification does not demonstrate that a State or locality meets the requirements described in subparagraph (A), the Assistant Attorney General for Civil Rights shall not certify

that the State or locality is eligible to receive a grant under this subtitle.

(4) **TRANSMITTAL OF CERTIFICATION.**—The Assistant Attorney General for Civil Rights shall transmit to the Attorney General either—

(A) a certification under subparagraph (A) of paragraph (3); or

(B) a notice of noncertification under subparagraph (B) of such paragraph, together with a report identifying the relevant deficiencies in the State's or locality's system for voting or administering elections for Federal office or in the request for certification submitted by the State or locality.

SEC. 214. AUTHORIZED ACTIVITIES.

A State or locality may use grant payments received under this subtitle—

(1) to improve, acquire, lease, modify, or replace voting systems and technology and to improve the accessibility of polling places, including providing physical access for individuals with disabilities, providing nonvisual access for individuals with visual impairments, and providing assistance to individuals with limited proficiency in the English language;

(2) to implement new election administration procedures to increase voter participation and to reduce disenfranchisement, such as "same-day" voter registration procedures;

(3) to educate voters concerning voting procedures, voting rights or voting technology, and to train election officials, poll workers, and election volunteers;

(4) to implement new election administration procedures such as requiring individuals to present identification at the polls and programs to identify, to deter, and to investigate voting fraud and to refer allegations of voting fraud to the appropriate authority;

(5) to meet the requirements of current Federal election law in accordance with the demonstration submitted under section 212(c)(1)(B) of such section;

(6) to establish toll-free telephone hotlines that voters may use to report possible voting fraud and voting rights violations and general election information; or

(7) to meet the requirements under section 101, 102, or 103.

SEC. 215. PAYMENTS; FEDERAL SHARE.

(a) **PAYMENTS.**—

(1) **IN GENERAL.**—Subject to paragraph (2), the Attorney General shall pay to each State or locality having an application approved under section 213 the Federal share of the costs of the activities described in that application.

(2) **INITIAL PAYMENT AMOUNT.**—The Attorney General shall pay to each State that submits an application under section 212 an amount equal to 0.5 percent of the amount appropriated under section 218 for the fiscal year in which such application is submitted to be used by such State for the activities authorized under section 214.

(3) **RETROACTIVE PAYMENTS.**—The Attorney General may make retroactive payments to States and localities having an application approved under section 213 for the Federal share of any costs for election technology or administration that meets the requirements of sections 101, 102, and 103 that were incurred during the period beginning on January 1, 2001, and ending on the date on which such application was approved under such section.

(b) **FEDERAL SHARE.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the Federal share of the costs shall be a percentage determined by the Attorney General that does not exceed 80 percent.

(2) **EXCEPTION.**—The Attorney General may provide for a Federal share of greater than 80 percent of the costs for a State or locality if the Attorney General determines that such greater percentage is necessary due to the lack of resources of the State or locality.

SEC. 216. AUDITS AND EXAMINATIONS OF STATES AND LOCALITIES.

(a) **RECORDKEEPING REQUIREMENT.**—Each recipient of a grant under this subtitle shall keep

such records as the Attorney General, in consultation with the Federal Election Commission, shall prescribe.

(b) **AUDITS AND EXAMINATIONS.**—The Attorney General and the Comptroller General, or any authorized representative of the Attorney General or the Comptroller General, may audit or examine any recipient of a grant under this subtitle and shall, for the purpose of conducting an audit or examination, have access to any record of a recipient of a grant under this subtitle that the Attorney General or the Comptroller General determines may be related to the grant.

(c) **OTHER AUDITS.**—If the Assistant Attorney General for Civil Rights has certified a State or locality as eligible to receive a grant under this subtitle in order to meet a certification requirement described in section 212(c)(1)(A) (as permitted under section 214(5)) and such State or locality is a recipient of such a grant, such Assistant Attorney General, in consultation with the Federal Election Commission shall—

(1) audit such recipient to ensure that the recipient has achieved, or is achieving, compliance with the certification requirements described in section 212(c)(1)(A); and

(2) have access to any record of the recipient that the Attorney General determines may be related to such a grant for the purpose of conducting such an audit.

SEC. 217. REPORTS TO CONGRESS AND THE ATTORNEY GENERAL.

(a) **REPORTS TO CONGRESS.**—

(1) **IN GENERAL.**—Not later than January 31, 2003, and each year thereafter, the Attorney General shall submit to the President and Congress a report on the grant program established under this subtitle for the preceding year.

(2) **CONTENTS.**—Each report submitted under paragraph (1) shall contain the following:

(A) A description and analysis of any activities funded by a grant awarded under this subtitle.

(B) Any recommendation for legislative or administrative action that the Attorney General considers appropriate.

(b) **REPORTS TO THE ATTORNEY GENERAL.**—The Attorney General shall require each recipient of a grant under this subtitle to submit reports to the Attorney General at such time, in such manner, and containing such information as the Attorney General considers appropriate.

SEC. 218. AUTHORIZATION OF APPROPRIATIONS.

(a) **IN GENERAL.**—There are authorized to be appropriated \$400,000,000 for fiscal year 2002 to carry out the provisions of this subtitle.

(b) **AVAILABILITY.**—Any amounts appropriated pursuant to the authority of subsection (a) shall remain available without fiscal year limitation until expended.

SEC. 219. EFFECTIVE DATE.

The Attorney General shall establish the general policies and criteria for the approval of applications under section 213(a) in a manner that ensures that the Attorney General is able to approve applications not later than October 1, 2002.

Subtitle C—Federal Election Accessibility Grant Program

SEC. 221. ESTABLISHMENT OF THE FEDERAL ELECTION ACCESSIBILITY GRANT PROGRAM.

(a) **IN GENERAL.**—There is established a Federal Election Accessibility Grant Program under which the Attorney General, subject to the general policies and criteria for the approval of applications established under section 223 by the Architectural and Transportation Barriers Compliance Board (as established under section 502 of the Rehabilitation Act of 1973 (29 U.S.C. 792)) (in this subtitle referred to as the "Access Board"), is authorized to make grants to States and localities to pay the costs of the activities described in section 224.

(b) **ACTION THROUGH OFFICE OF JUSTICE PROGRAMS AND CIVIL RIGHTS DIVISION.**—In carrying out this subtitle, the Attorney General shall act through—

(1) the Assistant Attorney General in charge of the Office of Justice Programs of the Department of Justice; and

(2) the Assistant Attorney General in charge of the Civil Rights Division of that Department.

SEC. 222. APPLICATION.

(a) **IN GENERAL.**—Each State or locality that desires to receive a grant under this subtitle shall submit an application to the Attorney General at such time, in such manner, and containing such information as the Attorney General shall require, consistent with the provisions of this section.

(b) **CONTENTS.**—Each application submitted under subsection (a) shall—

(1) describe the activities for which assistance under this section is sought;

(2) provide assurances that the State or locality will pay the non-Federal share of the cost of the activities for which assistance is sought from non-Federal sources; and

(3) provide such additional assurances as the Attorney General determines to be essential to ensure compliance with the requirements of this subtitle.

(c) **RELATION TO FEDERAL ELECTION REFORM INCENTIVE GRANT PROGRAM.**—A State or locality that desires to do so may submit an application under this section as part of any application submitted under section 212(a).

(d) **SAFE HARBOR.**—No action may be brought under this Act against a State or locality on the basis of any information contained in the application submitted under subsection (a).

SEC. 223. APPROVAL OF APPLICATIONS.

The Access Board shall establish general policies and criteria for the approval of applications submitted under section 222(a).

SEC. 224. AUTHORIZED ACTIVITIES.

A State or locality may use grant payments received under this subtitle—

(1) to make polling places, including the path of travel, entrances, exits, and voting areas of each polling facility, accessible to individuals with disabilities, including the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters; and

(2) to provide individuals with disabilities and the other individuals described in paragraph (1) with information about the accessibility of polling places, including outreach programs to inform the individuals about the availability of accessible polling places and to train election officials, poll workers, and election volunteers on how best to promote the access and participation of the individuals in elections for Federal office.

SEC. 225. PAYMENTS; FEDERAL SHARE.

(a) **PAYMENTS.**—

(1) **IN GENERAL.**—Subject to paragraph (2), the Attorney General shall pay to each State or locality having an application approved under section 223 the Federal share of the costs of the activities described in that application.

(2) **INITIAL PAYMENT AMOUNT.**—The Attorney General shall pay to each State that submits an application under section 222 an amount equal to 0.5 percent of the amount appropriated under section 228 for the fiscal year in which such application is submitted to be used by such State for the activities authorized under section 224.

(b) **FEDERAL SHARE.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the Federal share of the costs shall be a percentage determined by the Attorney General that does not exceed 80 percent.

(2) **EXCEPTION.**—The Attorney General may provide for a Federal share of greater than 80 percent of the costs for a State or locality if the Attorney General determines that such greater percentage is necessary due to the lack of resources of the State or locality.

SEC. 226. AUDITS AND EXAMINATIONS OF STATES AND LOCALITIES.

(a) **RECORDKEEPING REQUIREMENT.**—Each recipient of a grant under this subtitle shall keep

such records as the Attorney General, in consultation with the Access Board, shall prescribe.

(b) **AUDITS AND EXAMINATIONS.**—The Attorney General and the Comptroller General, or any authorized representative of the Attorney General or the Comptroller General, may audit or examine any recipient of a grant under this subtitle and shall, for the purpose of conducting an audit or examination, have access to any record of a recipient of a grant under this subtitle that the Attorney General or the Comptroller General determines may be related to the grant.

SEC. 227. REPORTS TO CONGRESS AND THE ATTORNEY GENERAL.

(a) **REPORTS TO CONGRESS.**—

(1) **IN GENERAL.**—Not later than January 31, 2003, and each year thereafter, the Attorney General shall submit to the President and Congress a report on the grant program established under this subtitle for the preceding year.

(2) **CONTENTS.**—Each report submitted under paragraph (1) shall contain the following:

(A) A description and analysis of any activities funded by a grant awarded under this subtitle.

(B) Any recommendation for legislative or administrative action that the Attorney General considers appropriate.

(b) **REPORTS TO THE ATTORNEY GENERAL.**—The Attorney General shall require each recipient of a grant under this subtitle to submit reports to the Attorney General at such time, in such manner, and containing such information as the Attorney General considers appropriate.

SEC. 228. AUTHORIZATION OF APPROPRIATIONS.

(a) **IN GENERAL.**—There are authorized to be appropriated \$100,000,000 for fiscal year 2002 to carry out the provisions of this subtitle.

(b) **AVAILABILITY.**—Any amounts appropriated pursuant to the authority of subsection (a) shall remain available without fiscal year limitation until expended.

SEC. 229. EFFECTIVE DATE.

The Access Board shall establish the general policies and criteria for the approval of applications under section 223 in a manner that ensures that the Attorney General is able to approve applications not later than October 1, 2002.

Subtitle D—National Student/Parent Mock Election

SEC. 231. NATIONAL STUDENT/PARENT MOCK ELECTION.

(a) **IN GENERAL.**—The Election Administration Commission is authorized to award grants to the National Student/Parent Mock Election, a national nonprofit, nonpartisan organization that works to promote voter participation in American elections to enable it to carry out voter education activities for students and their parents. Such activities may—

(1) include simulated national elections at least 5 days before the actual election that permit participation by students and parents from each of the 50 States in the United States, its territories, the District of Columbia, and United States schools overseas; and

(2) consist of—

(A) school forums and local cable call-in shows on the national issues to be voted upon in an “issues forum”;

(B) speeches and debates before students and parents by local candidates or stand-ins for such candidates;

(C) quiz team competitions, mock press conferences, and speech writing competitions;

(D) weekly meetings to follow the course of the campaign; or

(E) school and neighborhood campaigns to increase voter turnout, including newsletters, posters, telephone chains, and transportation.

(b) **REQUIREMENT.**—The National Student/Parent Mock Election shall present awards to outstanding student and parent mock election projects.

SEC. 232. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out the provisions of this subtitle \$650,000

for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

TITLE III—ADMINISTRATION

Subtitle A—Election Administration Commission

SEC. 301. ESTABLISHMENT OF THE ELECTION ADMINISTRATION COMMISSION.

There is established the Election Administration Commission (in this subtitle referred to as the “Commission”) as an independent establishment (as defined in section 104 of title 5, United States Code).

SEC. 302. MEMBERSHIP OF THE COMMISSION.

(a) **NUMBER AND APPOINTMENT.**—

(1) **COMPOSITION.**—The Commission shall be composed of 4 members appointed by the President, by and with the advice and consent of the Senate.

(2) **RECOMMENDATIONS.**—Before the initial appointment of the members of the Commission and before the appointment of any individual to fill a vacancy on the Commission, the Majority Leader of the Senate, the Speaker of the House of Representatives, the Minority Leader of the Senate, and the Minority Leader of the House of Representatives shall each submit to the President a candidate recommendation with respect to each vacancy on the Commission affiliated with the political party of the officer involved.

(b) **QUALIFICATIONS.**—

(1) **IN GENERAL.**—Each member appointed under subsection (a) shall be appointed on the basis of—

(A) knowledge of—

(i) and experience with, election law;

(ii) and experience with, election technology;

(iii) and experience with, Federal, State, or local election administration;

(iv) the Constitution; or

(v) the history of the United States; and

(B) integrity, impartiality, and good judgment.

(2) **PARTY AFFILIATION.**—Not more than 2 of the 4 members appointed under subsection (a) may be affiliated with the same political party.

(3) **FEDERAL OFFICERS AND EMPLOYEES.**—Members appointed under subsection (a) shall be individuals who, at the time appointed to the Commission, are not elected or appointed officers or employees of the Federal Government.

(4) **OTHER ACTIVITIES.**—No member appointed to the Commission under subsection (a) may engage in any other business, vocation, or employment while serving as a member of the Commission and shall terminate or liquidate such business, vocation, or employment not later than the date on which the Commission first meets.

(c) **DATE OF APPOINTMENT.**—The appointments of the members of the Commission shall be made not later than the date that is 90 days after the date of enactment of this Act.

(d) **PERIOD OF APPOINTMENT; VACANCIES.**—

(1) **PERIOD OF APPOINTMENT.**—Members shall be appointed for a term of 6 years, except that, of the members first appointed, 2 of the members who are not affiliated with the same political party shall be appointed for a term of 4 years. Except as provided in paragraph (2), a member may only serve 1 term.

(2) **VACANCIES.**—

(A) **IN GENERAL.**—A vacancy on the Commission shall not affect its powers, but shall be filled in the manner in which the original appointment was made. The appointment made to fill the vacancy shall be subject to any conditions which applied with respect to the original appointment.

(B) **EXPIRED TERMS.**—A member of the Commission may serve on the Commission after the expiration of the member's term until the successor of such member has taken office as a member of the Commission.

(C) **UNEXPIRED TERMS.**—An individual appointed to fill a vacancy on the Commission occurring before the expiration of the term for which the individual's predecessor was ap-

pointed shall be appointed for the unexpired term of the member replaced. Such individual may be appointed to a full term in addition to the unexpired term for which that individual is appointed.

(e) **CHAIRPERSON; VICE CHAIRPERSON.**—

(1) **IN GENERAL.**—The Commission shall elect a chairperson and vice chairperson from among its members for a term of 1 year.

(2) **NUMBER OF TERMS.**—A member of the Commission may serve as the chairperson only twice during the term of office to which such member is appointed.

(3) **POLITICAL AFFILIATION.**—The chairperson and vice chairperson may not be affiliated with the same political party.

SEC. 303. DUTIES OF THE COMMISSION.

(a) **IN GENERAL.**—The Commission—

(1) shall serve as a clearinghouse, gather information, conduct studies, and issue reports concerning issues relating to elections for Federal office;

(2) shall carry out the provisions of section 9 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-7);

(3) shall make available information regarding the Federal election system to the public and media;

(4) shall compile and make available to the public the official certified results of elections for Federal office and statistics regarding national voter registration and turnout;

(5) shall establish an Internet website to facilitate public access, public comment, and public participation in the activities of the Commission, and shall make all information on such website available in print;

(6) shall conduct the study on election technology and administration under subsection (b)(1) and submit the report under subsection (b)(2); and

(7) beginning on the transition date (as defined in section 316(a)(2)), shall administer—

(A) the voting systems standards under section 101;

(B) the provisional voting requirements under section 102;

(C) the computerized statewide voter registration list requirements and requirements for voters who register by mail under section 103;

(D) the Uniform and Nondiscriminatory Election Technology and Administration Requirements Grant Program under subtitle A of title II;

(E) the Federal Election Reform Incentive Grant Program under subtitle C of title II; and

(F) the Federal Election Accessibility Grant Program under subtitle B of title II.

(b) **STUDIES AND REPORTS ON ELECTION TECHNOLOGY AND ADMINISTRATION.**—

(1) **STUDY OF FIRST TIME VOTERS WHO REGISTER BY MAIL.**—

(A) **STUDY.**—

(i) **IN GENERAL.**—The Commission shall conduct a study of the impact of section 103(b) on voters who register by mail.

(ii) **SPECIFIC ISSUES STUDIED.**—The study conducted under clause (i) shall include—

(I) an examination of the impact of section 103(b) on first time mail registrant voters who vote in person, including the impact of such section on voter registration;

(II) an examination of the impact of such section on the accuracy of voter rolls, including preventing ineligible names from being placed on voter rolls and ensuring that all eligible names are placed on voter rolls; and

(III) an analysis of the impact of such section on existing State practices, such as the use of signature verification or attestation procedures to verify the identity of voters in elections for Federal office, and an analysis of other changes that may be made to improve the voter registration process, such as verification or additional information on the registration card.

(B) **REPORT.**—Not later than 18 months after the date on which section 103(b)(2)(A) takes effect, the Commission shall submit a report to the

President and Congress on the study conducted under subparagraph (A)(i) together with such recommendations for administrative and legislative action as the Commission determines is appropriate.

(2) **STUDIES.**—The Commission shall conduct periodic studies of—

(A) methods of election technology and voting systems in elections for Federal office, including the over-vote and under-vote notification capabilities of such technology and systems;

(B) ballot designs for elections for Federal office;

(C) methods of ensuring the accessibility of voting, registration, polling places, and voting equipment to all voters, including blind and disabled voters, and voters with limited proficiency in the English language;

(D) nationwide statistics and methods of identifying, deterring, and investigating voting fraud in elections for Federal office;

(E) methods of voter intimidation;

(F) the recruitment and training of poll workers;

(G) the feasibility and advisability of conducting elections for Federal office on different days, at different places, and during different hours, including the advisability of establishing a uniform poll closing time and establishing election day as a Federal holiday;

(H) ways that the Federal Government can best assist State and local authorities to improve the administration of elections for Federal office and what levels of funding would be necessary to provide such assistance;

(I)(i) the laws and procedures used by each State that govern—

(I) recounts of ballots cast in elections for Federal office;

(II) contests of determinations regarding whether votes are counted in such elections; and (III) standards that define what will constitute a vote on each type of voting equipment used in the State to conduct elections for Federal office;

(ii) the best practices (as identified by the Commission) that are used by States with respect to the recounts and contests described in clause (i); and

(iii) whether or not there is a need for more consistency among State recount and contest procedures used with respect to elections for Federal office;

(J) such other matters as the Commission determines are appropriate; and

(K) the technical feasibility of providing voting materials in 8 or more languages for voters who speak those languages and who are limited English proficient.

(3) **REPORTS.**—The Commission shall submit to the President and Congress a report on each study conducted under paragraph (2) together with such recommendations for administrative and legislative action as the Commission determines is appropriate.

SEC. 304. MEETINGS OF THE COMMISSION.

The Commission shall meet at the call of any member of the Commission, but may not meet less often than monthly.

SEC. 305. POWERS OF THE COMMISSION.

(a) **HEARINGS.**—The Commission or, at its direction, any subcommittee or member of the Commission, may, for the purpose of carrying out this subtitle hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, administer such oaths as the Commission or such subcommittee or member considers advisable.

(b) **VOTING.**—

(1) **IN GENERAL.**—Each action of the Commission shall be approved by a majority vote of the members of the Commission and each member of the Commission shall have 1 vote.

(2) **SPECIAL RULES.**—

(A) **UNIFORM AND NONDISCRIMINATORY ELECTION TECHNOLOGY AND ADMINISTRATION REQUIREMENTS.**—

(i) **ADOPTION OR REVISION OF STANDARDS AND GUIDELINES.**—If standards or guidelines have been promulgated under section 101, 102, or 103 as of the transition date (as defined in section 316(a)(2)), not later than 30 days after the transition date, the Commission shall—

(I) adopt such standards or guidelines by a majority vote of the members of the Commission; or

(II) promulgate revisions to such standards or guidelines and such revisions shall take effect only upon the approval of a majority of the members of the Commission.

(ii) **ESTABLISHMENT OF STANDARDS AND GUIDELINES.**—

(I) If standards or guidelines have not been promulgated under section 101, 102, or 103 as of the transition date (as defined in section 316(a)(2)), the Commission shall promulgate such standards or guidelines not later than the date described in subclause (II) and such standards or guidelines shall take effect only upon the approval of a majority of the members of the Commission.

(II) The date described this subclause is the later of—

(aa) the date described in section 101(c)(1), 102(c), or 103(c) (as applicable); or

(bb) the date that is 30 days after the transition date (as defined in section 316(a)(2)).

(B) **GRANT PROGRAMS.**—

(i) **APPROVAL OR DENIAL.**—The grants shall be approved or denied under sections 204, 213, and 223 by a majority vote of the members of the Commission not later than the date that is 30 days after the date on which the application is submitted to the Commission under section 203, 212, or 222.

(ii) **ADOPTION OR REVISION OF GENERAL POLICIES AND CRITERIA.**—If general policies and criteria for the approval of applications have been established under section 204, 213, or 223 as of the transition date (as defined in section 316(a)(2)), not later than 30 days after the transition date, the Commission shall—

(I) adopt such general policies and criteria by a majority vote of the members of the Commission; or

(II) promulgate revisions to such general policies and criteria and such revisions shall take effect only upon the approval of a majority of the members of the Commission.

(iii) **ESTABLISHMENT OF GENERAL POLICIES AND CRITERIA.**—

(I) If general policies and criteria for the approval of applications have been established under section 204, 213, or 223 as of the transition date (as defined in section 316(a)(2)), the Commission shall promulgate such general policies and criteria not later than the date described in subclause (II) and such general policies and criteria shall take effect only upon the approval of a majority of the members of the Commission.

(II) The date described this subclause is the later of—

(aa) the date described in section 101(c)(1), 102(c), or 103(c) (as applicable); or

(bb) the date that is 30 days after the transition date (as defined in section 316(a)(2)).

(c) **INFORMATION FROM FEDERAL AGENCIES.**—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out this subtitle. Upon request of the Commission, the head of such department or agency shall furnish such information to the Commission.

(d) **POSTAL SERVICES.**—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

SEC. 306. COMMISSION PERSONNEL MATTERS.

(a) **COMPENSATION OF MEMBERS.**—Each member of the Commission shall be compensated at the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(b) **STAFF.**—

(1) **APPOINTMENT AND TERMINATION.**—Subject to paragraph (2), the Commission may, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, appoint and terminate an Executive Director, a General Counsel, and such other personnel as may be necessary to enable the Commission to perform its duties.

(2) **EXECUTIVE DIRECTOR; GENERAL COUNSEL.**—

(A) **APPOINTMENT AND TERMINATION.**—The appointment and termination of the Executive Director and General Counsel under paragraph (1) shall be approved by a majority of the members of the Commission.

(B) **INITIAL APPOINTMENT.**—Beginning on the transition date (as defined in section 316(a)(2)), the Director of the Office of Election Administration of the Federal Election Commission shall serve as the Executive Director of the Commission until such date as a successor is appointed under paragraph (1).

(C) **TERM.**—The term of the Executive Director and the General Counsel shall be for a period of 6 years. An individual may not serve for more than 2 terms as the Executive Director or the General Counsel. The appointment of an individual with respect to each term shall be approved by a majority of the members of the Commission.

(D) **CONTINUANCE IN OFFICE.**—Notwithstanding subparagraph (C), the Executive Director and General Counsel shall continue in office until a successor is appointed under paragraph (1).

(3) **COMPENSATION.**—The Commission may fix the compensation of the Executive Director, General Counsel, and other personnel without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the Executive Director, General Counsel, and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(c) **DETAIL OF GOVERNMENT EMPLOYEES.**—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(d) **PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.**—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 307. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Commission such sums as may be necessary to carry out this subtitle.

Subtitle B—Transition Provisions

SEC. 311. EQUAL PROTECTION OF VOTING RIGHTS ACT OF 2001.

(a) **TRANSFER OF CERTAIN FUNCTIONS OF FEDERAL ELECTION COMMISSION.**—There are transferred to the Election Administration Commission established under section 301 all functions of the Federal Election Commission under section 101 and under subtitles A and B of title II before the transition date (as defined in section 316(a)(2)).

(b) **TRANSFER OF CERTAIN FUNCTIONS OF THE ATTORNEY GENERAL.**—

(1) **TITLE I FUNCTIONS.**—There are transferred to the Election Administration Commission established under section 301 all functions of the Assistant Attorney General in charge of the Civil Rights Division of the Department of Justice under sections 102 and 103 before the transition date (as defined in section 316(a)(2)).

(2) **GRANTMAKING FUNCTIONS.**—

(A) **IN GENERAL.**—Except as provided in paragraph (2), there are transferred to the Election Administration Commission established under

section 301 all functions of the Attorney General, the Assistant Attorney General in charge of the Office of Justice Programs of the Department of Justice, and the Assistant Attorney General in charge of the Civil Rights Division of the Department of Justice under subtitles A, B, and C of title II before the transition date (as defined in section 316(a)(2)).

(B) EXCEPTION.—The functions of the Attorney General relating to the review of State plans under section 204 and the certification requirements under section 213 shall not be transferred under paragraph (1).

(3) ENFORCEMENT.—The Attorney General shall remain responsible for any enforcement action required under this Act, including the enforcement of the voting systems standards through the Assistant Attorney General in charge of the Civil Rights Division of the Department of Justice under section 104 and the criminal penalties under section 502.

(c) TRANSFER OF CERTAIN FUNCTIONS OF THE ACCESS BOARD.—There are transferred to the Election Administration Commission established under section 301 all functions of the Architectural and Transportation Barriers Compliance Board (as established under section 502 of the Rehabilitation Act of 1973 (29 U.S.C. 792)) under section 101 and under subtitles A, B, and C of title II before the transition date (as defined in section 316(a)(2)), except that—

(1) the Architectural and Transportation Barriers Compliance Board shall remain responsible under section 223 for the general policies and criteria for the approval of applications submitted under section 222(a); and

(2) in revising the voting systems standards under section 101(c)(2) the Commission shall consult with the Architectural and Transportation Barriers Compliance Board.

SEC. 312. FEDERAL ELECTION CAMPAIGN ACT OF 1971.

(a) TRANSFER OF FUNCTIONS OF OFFICE OF ELECTION ADMINISTRATION.—There are transferred to the Election Administration Commission established under section 301 all functions of the Director of the Office of the Election Administration of the Federal Election Commission before the transition date (as defined in section 316(a)(2)).

(b) CONFORMING AMENDMENT.—Section 311(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 438(a)) is amended—

(1) in paragraph (8), by inserting “and” at the end;

(2) in paragraph (9), by striking “; and” and inserting a period; and

(3) by striking paragraph (10) and the second and third sentences.

SEC. 313. NATIONAL VOTER REGISTRATION ACT OF 1993.

(a) TRANSFER OF FUNCTIONS.—There are transferred to the Election Administration Commission established under section 301 all functions of the Federal Election Commission under the National Voter Registration Act of 1993 before the transition date (as defined in section 316(a)(2)).

(b) CONFORMING AMENDMENT.—For purposes of section 9(a) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-7(a)), the reference to the Federal Election Commission shall be deemed to be a reference to the Election Administration Commission.

SEC. 314. TRANSFER OF PROPERTY, RECORDS, AND PERSONNEL.

(a) PROPERTY AND RECORDS.—The contracts, liabilities, records, property, and other assets and interests of, or made available in connection with, the offices and functions of the Federal Election Commission which are transferred by this subtitle are transferred to the Election Administration Commission for appropriate allocation.

(b) PERSONNEL.—The personnel employed in connection with the offices and functions of the Federal Election Commission which are trans-

ferred by this subtitle are transferred to the Election Administration Commission.

SEC. 315. COVERAGE OF ELECTION ADMINISTRATION COMMISSION UNDER CERTAIN LAWS AND PROGRAMS.

(a) TREATMENT OF COMMISSION PERSONNEL UNDER CERTAIN CIVIL SERVICE LAWS.—

(1) COVERAGE UNDER HATCH ACT.—Section 7323(b)(2)(B)(i)(I) of title 5, United States Code, is amended by inserting “or the Election Administration Commission” after “Commission”.

(2) EXCLUSION FROM SENIOR EXECUTIVE SERVICE.—Section 3132(a)(1)(C) of title 5, United States Code, is amended by inserting “or the Election Administration Commission” after “Commission”.

(b) COVERAGE UNDER INSPECTOR GENERAL ACT OF 1978.—Section 8G(a)(2) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by inserting “, the Election Administration Commission,” after “Federal Election Commission.”.

SEC. 316. EFFECTIVE DATE; TRANSITION.

(a) EFFECTIVE DATE.—

(1) IN GENERAL.—This subtitle and the amendments made by this subtitle shall take effect on the transition date (as defined in paragraph (2)).

(2) TRANSITION DATE DEFINED.—In this section, the term “transition date” means the earlier of—

(A) the date that is 1 year after the date of enactment of this Act; or

(B) the date that is 60 days after the first date on which all of the members of the Election Administration Commission have been appointed under section 302.

(b) TRANSITION.—With the consent of the entity involved, the Election Administration Commission is authorized to utilize the services of such officers, employees, and other personnel of the entities from which functions have been transferred to the Commission under this title or the amendments made by this title for such period of time as may reasonably be needed to facilitate the orderly transfer of such functions.

Subtitle C—Advisory Committee on Electronic Voting and the Electoral Process

SEC. 321. ESTABLISHMENT OF COMMITTEE.

(a) ESTABLISHMENT.—There is established the Advisory Committee on Electronic Voting and the Electoral Process (in this subtitle referred to as the “Committee”).

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Committee shall be composed of 16 members as follows:

(A) FEDERAL REPRESENTATIVES.—Four representatives of the Federal Government, comprised of the Attorney General, the Secretary of Defense, the Director of the Federal Bureau of Investigation, and the Chairman of the Federal Election Commission, or an individual designated by the respective representative.

(B) INTERNET REPRESENTATIVES.—Four representatives of the Internet and information technology industries (at least 2 of whom shall represent a company that is engaged in the provision of electronic voting services on the date on which the representative is appointed, and at least 2 of whom shall possess special expertise in Internet or communications systems security).

(C) STATE AND LOCAL REPRESENTATIVES.—Four representatives from State and local governments (2 of whom shall be from States that have made preliminary inquiries into the use of the Internet in the electoral process).

(D) PRIVATE SECTOR REPRESENTATIVES.—Four representatives not affiliated with the Government (2 of whom shall have expertise in election law, and 2 of whom shall have expertise in political speech).

(2) APPOINTMENTS.—Appointments to the Committee shall be made not later than the date that is 30 days after the date of enactment of this Act and such appointments shall be made in the following manner:

(A) SENATE MAJORITY LEADER.—Two individuals shall be appointed by the Majority Leader

of the Senate, of whom 1 shall be an individual described in paragraph (1)(B) and 1 shall be an individual described in paragraph (1)(C).

(B) SENATE MINORITY LEADER.—Two individuals shall be appointed by the Minority Leader of the Senate, of whom 1 shall be an individual described in paragraph (1)(B) and 1 shall be an individual described in paragraph (1)(C).

(C) SPEAKER OF THE HOUSE.—Two individuals shall be appointed by the Speaker of the House of Representatives, of whom 1 shall be an individual described in paragraph (1)(B) and 1 shall be an individual described in paragraph (1)(C).

(D) HOUSE MINORITY LEADER.—Two individuals shall be appointed by the Minority Leader of the House of Representatives, of whom 1 shall be an individual described in paragraph (1)(B) and 1 shall be an individual described in paragraph (1)(C).

(E) SENATE MAJORITY AND HOUSE MINORITY JOINTLY.—Two individuals described in paragraph (1)(D) shall be appointed jointly by the Majority Leader of the Senate and the Minority Leader of the House of Representatives.

(F) HOUSE MAJORITY AND SENATE MINORITY JOINTLY.—Two individuals described in paragraph (1)(D) shall be appointed jointly by the Speaker of the House of Representatives and the Minority Leader of the Senate.

(3) DATE.—The appointments of the members of the Committee shall be made not later than the date that is 30 days after the date of enactment of this Act.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Committee. Any vacancy in the Committee shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) INITIAL MEETING.—Not later than 30 days after the date on which all of the members of the Committee have been appointed, the Committee shall hold its first meeting.

(e) MEETINGS.—

(1) IN GENERAL.—The Committee shall meet at the call of the Chairperson or upon the written request of a majority of the members of the Committee.

(2) NOTICE.—Not later than the date that is 14 days before the date of each meeting of the Committee, the Chairperson shall cause notice thereof to be published in the Federal Register.

(3) OPEN MEETINGS.—Each Committee meeting shall be open to the public.

(f) QUORUM.—Eight members of the Committee shall constitute a quorum, but a lesser number of members may hold hearings.

(g) CHAIRPERSON.—The Committee shall select a Chairperson from among its members by a majority vote of the members of the Committee.

(h) ADDITIONAL RULES.—The Committee may adopt such other rules as the Committee determines to be appropriate by a majority vote of the members of the Committee.

SEC. 322. DUTIES OF THE COMMITTEE.

(a) STUDY.—

(1) IN GENERAL.—The Committee shall conduct a thorough study of issues and challenges, specifically to include the potential for election fraud, presented by incorporating communications and Internet technologies in the Federal, State, and local electoral process.

(2) ISSUES TO BE STUDIED.—The Committee may include in the study conducted under paragraph (1) an examination of—

(A) the appropriate security measures required and minimum standards for certification of systems or technologies in order to minimize the potential for fraud in voting or in the registration of qualified citizens to register and vote;

(B) the possible methods, such as Internet or other communications technologies, that may be utilized in the electoral process, including the use of those technologies to register voters and enable citizens to vote online, and recommendations concerning statutes and rules to be adopted in order to implement an online or Internet system in the electoral process;

(C) the impact that new communications or Internet technology systems for use in the electoral process could have on voter participation rates, voter education, public accessibility, potential external influences during the elections process, voter privacy and anonymity, and other issues related to the conduct and administration of elections;

(D) whether other aspects of the electoral process, such as public availability of candidate information and citizen communication with candidates, could benefit from the increased use of online or Internet technologies;

(E) the requirements for authorization of collection, storage, and processing of electronically generated and transmitted digital messages to permit any eligible person to register to vote or vote in an election, including applying for and casting an absentee ballot;

(F) the implementation cost of an online or Internet voting or voter registration system and the costs of elections after implementation (including a comparison of total cost savings for the administration of the electoral process by using Internet technologies or systems);

(G) identification of current and foreseeable online and Internet technologies for use in the registration of voters, for voting, or for the purpose of reducing election fraud, currently available or in use by election authorities;

(H) the means by which to ensure and achieve equity of access to online or Internet voting or voter registration systems and address the fairness of such systems to all citizens; and

(I) the impact of technology on the speed, timeliness, and accuracy of vote counts in Federal, State, and local elections.

(b) REPORT.—

(1) TRANSMISSION.—Not later than 20 months after the date of enactment of this Act, the Committee shall transmit to Congress and the Election Administration Commission established under section 301, for the consideration of such bodies, a report reflecting the results of the study required by subsection (a), including such legislative recommendations or model State laws as are required to address the findings of the Committee.

(2) APPROVAL OF REPORT.—Any finding or recommendation included in the report shall be agreed to by at least ¾ of the members of the Committee serving at the time the finding or recommendation is made.

(3) INTERNET POSTING.—The Election Administration Commission shall post the report transmitted under paragraph (1) on the Internet website established under section 303(a)(5).

SEC. 323. POWERS OF THE COMMITTEE.

(a) HEARINGS.—

(1) IN GENERAL.—The Committee may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Committee considers advisable to carry out this subtitle.

(2) OPPORTUNITIES TO TESTIFY.—The Committee shall provide opportunities for representatives of the general public, State and local government officials, and other groups to testify at hearings.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Committee may secure directly from any Federal department or agency such information as the Committee considers necessary to carry out this subtitle. Upon request of the Chairperson of the Committee, the head of such department or agency shall furnish such information to the Committee.

(c) POSTAL SERVICES.—The Committee may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) GIFTS.—

(1) IN GENERAL.—The Committee may accept, use, and dispose of gifts or donations of services or property.

(2) UNUSED GIFTS.—Gifts or grants not used at the expiration of the Committee shall be returned to the donor or grantor.

SEC. 324. COMMITTEE PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Committee shall serve without compensation.

(b) TRAVEL EXPENSES.—The members of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter 1 of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Committee.

(c) STAFF.—

(1) IN GENERAL.—The Chairperson of the Committee may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Committee to perform its duties. The employment of an executive director shall be subject to confirmation by the Committee.

(2) COMPENSATION.—The Chairperson of the Committee may fix the compensation of the executive director and other personnel without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(3) PERSONNEL AS FEDERAL EMPLOYEES.—

(A) IN GENERAL.—The executive director and any personnel of the Committee who are employees shall be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

(B) MEMBERS OF COMMITTEE.—

(A) shall not be construed to apply to members of the Committee.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—

Any Federal Government employee may be detailed to the Committee without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—

The Chairperson of the Committee may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 325. TERMINATION OF THE COMMITTEE.

The Committee shall terminate 90 days after the date on which the Committee transmits its report under section 322(b)(1).

SEC. 326. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this subtitle not less than \$2,000,000 from the funds appropriated under section 307.

(b) AVAILABILITY.—Any sums appropriated under the authorization contained in this subtitle shall remain available, without fiscal year limitation, until expended.

TITLE IV—UNIFORMED SERVICES ELECTION REFORM

SEC. 401. STANDARD FOR INVALIDATION OF BALLOTS CAST BY ABSENT UNIFORMED SERVICES VOTERS IN FEDERAL ELECTIONS.

(a) IN GENERAL.—Section 102 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-1), as amended by section 1606(a)(1) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107; 115 Stat. 1278), is amended—

(1) by striking “Each State” and inserting “(a) IN GENERAL.—Each State”; and

(2) by adding at the end the following:

“(b) STANDARDS FOR INVALIDATION OF CERTAIN BALLOTS.—

“(1) IN GENERAL.—A State may not refuse to count a ballot submitted in an election for Federal office by an absent uniformed services voter—

“(A) solely on the grounds that the ballot lacked—

“(i) a notarized witness signature;

“(ii) an address (other than on a Federal write-in absentee ballot, commonly known as ‘SF186’);

“(iii) a postmark if there are any other indicia that the vote was cast in a timely manner; or

“(iv) an overseas postmark; or

“(B) solely on the basis of a comparison of signatures on ballots, envelopes, or registration forms unless there is a lack of reasonable similarity between the signatures.

“(2) NO EFFECT ON FILING DEADLINES UNDER STATE LAW.—Nothing in this subsection may be construed to affect the application to ballots submitted by absent uniformed services voters of any ballot submission deadline applicable under State law.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to ballots described in section 102(b) of the Uniformed and Overseas Citizens Absentee Voting Act (as added by such subsection) that are submitted with respect to elections that occur after the date of enactment of this Act.

SEC. 402. MAXIMIZATION OF ACCESS OF RECENTLY SEPARATED UNIFORMED SERVICES VOTERS TO THE POLLS.

(a) IN GENERAL.—Section 102(a) of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-1), as amended by section 401(a) of this Act and section 1606(a)(1) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107; 115 Stat. 1278), is amended—

(1) in paragraph (3), by striking “and” after the semicolon at the end;

(2) in paragraph (4), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

“(5) in addition to using the postcard form for the purpose described in paragraph (4), accept and process any otherwise valid voter registration application submitted by a uniformed service voter for the purpose of voting in an election for Federal office; and

“(6) permit each recently separated uniformed services voter to vote in any election for which a voter registration application has been accepted and processed under this section if that voter—

“(A) has registered to vote under this section; and

“(B) is eligible to vote in that election under State law.”.

(b) DEFINITIONS.—Section 107 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-6) is amended—

(1) by redesignating paragraphs (7) and (8) as paragraphs (9) and (10), respectively;

(2) by inserting after paragraph (6) the following new paragraph:

“(7) The term ‘recently separated uniformed services voter’ means any individual who was a uniformed services voter on the date that is 60 days before the date on which the individual seeks to vote and who—

“(A) presents to the election official Department of Defense form 214 evidencing their former status as such a voter, or any other official proof of such status;

“(B) is no longer such a voter; and

“(C) is otherwise qualified to vote in that election.”;

(3) by redesignating paragraph (10) (as redesignated by paragraph (1)) as paragraph (11); and

(4) by inserting after paragraph (9) the following new paragraph:

“(10) The term ‘uniformed services voter’ means—

“(A) a member of a uniformed service in active service;

“(B) a member of the merchant marine; and

“(C) a spouse or dependent of a member referred to in subparagraph (A) or (B) who is qualified to vote.”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to elections for Federal office that occur after the date of enactment of this Act.

SEC. 403. PROHIBITION OF REFUSAL OF VOTER REGISTRATION AND ABSENTEE BALLOT APPLICATIONS ON GROUNDS OF EARLY SUBMISSION.

(a) **IN GENERAL.**—Section 104 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-3), as amended by section 1606(b) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107; 115 Stat. 1279), is amended by adding at the end the following new subsection:

“(e) **PROHIBITION OF REFUSAL OF APPLICATIONS ON GROUNDS OF EARLY SUBMISSION.**—A State may not refuse to accept or process, with respect to any election for Federal office, any otherwise valid voter registration application or absentee ballot application (including the post-card form prescribed under section 101) submitted by an absent uniformed services voter during a year on the grounds that the voter submitted the application before the first date on which the State otherwise accepts or processes such applications for that year submitted by absentee voters who are not members of the uniformed services.”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply with respect to elections for Federal office that occur after the date of enactment of this Act.

SEC. 404. DISTRIBUTION OF FEDERAL MILITARY VOTER LAWS TO THE STATES.

Not later than the date that is 60 days after the date of enactment of this Act, the Secretary of Defense (in this section referred to as the “Secretary”), as part of any voting assistance program conducted by the Secretary, shall distribute to each State (as defined in section 107 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-6) enough copies of the Federal military voting laws (as identified by the Secretary) so that the State is able to distribute a copy of such laws to each jurisdiction of the State.

SEC. 405. EFFECTIVE DATES.

Notwithstanding the preceding provisions of this title, each effective date otherwise provided under this title shall take effect 1 day after such effective date.

SEC. 406. STUDY AND REPORT ON PERMANENT REGISTRATION OF OVERSEAS VOTERS; DISTRIBUTION OF OVERSEAS VOTING INFORMATION BY A SINGLE STATE OFFICE; STUDY AND REPORT ON EXPANSION OF SINGLE STATE OFFICE DUTIES.

(a) **STUDY AND REPORT ON PERMANENT REGISTRATION OF OVERSEAS VOTERS.**—

(1) **STUDY.**—The Election Administration Commission established under section 301 (in this subsection referred to as the “Commission”), shall conduct a study on the feasibility and advisability of providing for permanent registration of overseas voters under section 104 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-3), as amended by section 1606(b) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107; 115 Stat. 1279) and this title.

(2) **REPORT.**—The Commission shall submit a report to Congress on the study conducted under paragraph (1) together with such recommendations for legislative and administrative action as the Commission determines appropriate.

(b) **DISTRIBUTION OF OVERSEAS VOTING INFORMATION BY A SINGLE STATE OFFICE.**—Section 102 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-1), as amended by section 1606(a)(1) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107; 115 Stat. 1278) and the preceding provisions of this title, is amended by adding at the end the following new subsection:

“(c) **DESIGNATION OF SINGLE STATE OFFICE TO PROVIDE INFORMATION ON REGISTRATION AND**

ABSENTEE BALLOT PROCEDURES FOR ALL VOTERS IN THE STATE.—Each State shall designate a single office which shall be responsible for providing information regarding voter registration procedures and absentee ballot procedures to be used by absent uniformed services voters and overseas voters with respect to elections for Federal office (including procedures relating to the use of the Federal write-in absentee ballot) to all absent uniformed services voters and overseas voters who wish to register to vote or vote in any jurisdiction in the State.”.

(c) **STUDY AND REPORT ON EXPANSION OF SINGLE STATE OFFICE DUTIES.**—

(1) **STUDY.**—The Election Administration Commission established under section 301 (in this subsection referred to as the “Commission”), shall conduct a study on the feasibility and advisability of making the State office designated under section 102(c) of the Uniformed and Overseas Citizens Absentee Voting Act (as added by subsection (b)) responsible for the acceptance of valid voter registration applications, absentee ballot applications, and absentee ballots (including Federal write-in absentee ballots) from each absent uniformed services voter or overseas voter who wishes to register to vote or vote in any jurisdiction in the State.

(2) **REPORT.**—The Commission shall submit a report to Congress on the study conducted under paragraph (1) together with such recommendations for legislative and administrative action as the Commission determines appropriate.

SEC. 407. REPORT ON ABSENTEE BALLOTS TRANSMITTED AND RECEIVED AFTER GENERAL ELECTIONS.

(a) **IN GENERAL.**—Section 102 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-1), as amended by the preceding provisions of this title, is amended by adding at the end the following new subsection:

“(d) **REPORT ON NUMBER OF ABSENTEE BALLOTS TRANSMITTED AND RECEIVED.**—Not later than 120 days after the date of each regularly scheduled general election for Federal office, each State and unit of local government that administered the election shall (through the State, in the case of a unit of local government) submit a report to the Election Administration Commission (established under the Martin Luther King, Jr. Equal Protection of Voting Rights Act of 2002) on the number of absentee ballots transmitted to absent uniformed services voters and overseas voters for the election and the number of such ballots that were returned by such voters and cast in the election, and shall make such report available to the general public.”.

(b) **DEVELOPMENT OF STANDARDIZED FORMAT FOR REPORTS.**—The Election Administration Commission shall develop a standardized format for the reports submitted by States and units of local government under section 102(d) of the Uniformed and Overseas Citizens Absentee Voting Act (as added by subsection (a)), and shall make the format available to the States and units of local government submitting such reports.

SEC. 408. OTHER REQUIREMENTS TO PROMOTE PARTICIPATION OF OVERSEAS AND ABSENT UNIFORMED SERVICES VOTERS.

Section 102 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-1), as amended by the preceding provisions of this title, is amended by adding at the end the following new subsection:

“(e) **REGISTRATION NOTIFICATION.**—With respect to each absent uniformed services voter and each overseas voter who submits a voter registration application or an absentee ballot request, if the State rejects the application or request, the State shall provide the voter with the reasons for the rejection.”.

SEC. 409. STUDY AND REPORT ON THE DEVELOPMENT OF A STANDARD OATH FOR USE WITH OVERSEAS VOTING MATERIALS.

(a) **STUDY.**—The Election Administration Commission established under section 301 (in this section referred to as the “Commission”), shall conduct a study on the feasibility and advisability of—

(1) prescribing a standard oath for use with any document under the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq) affirming that a material misstatement of fact in the completion of such a document may constitute grounds for a conviction for perjury; and

(2) if the State requires an oath or affirmation to accompany any document under such Act, to require the State to use the standard oath described in paragraph (1).

(b) **REPORT.**—The Commission shall submit a report to Congress on the study conducted under subsection (a) together with such recommendations for legislative and administrative action as the Commission determines appropriate.

SEC. 410. STUDY AND REPORT ON PROHIBITING NOTARIZATION REQUIREMENTS.

(a) **STUDY.**—The Election Administration Commission established under section 301 (in this section referred to as the “Commission”), shall conduct a study on the feasibility and advisability of prohibiting a State from refusing to accept any voter registration application, absentee ballot request, or absentee ballot submitted by an absent uniformed services voter or overseas voter on the grounds that the document involved is not notarized.

(b) **REPORT.**—The Commission shall submit a report to Congress on the study conducted under subsection (a) together with such recommendations for legislative and administrative action as the Commission determines appropriate.

TITLE V—CRIMINAL PENALTIES; MISCELLANEOUS

SEC. 501. REVIEW AND REPORT ON ADEQUACY OF EXISTING ELECTORAL FRAUD STATUTES AND PENALTIES.

(a) **REVIEW.**—The Attorney General shall conduct a review of existing criminal statutes concerning election offenses to determine—

(1) whether additional statutory offenses are needed to secure the use of the Internet for election purposes; and

(2) whether existing penalties provide adequate punishment and deterrence with respect to such offenses.

(b) **REPORT.**—The Attorney General shall submit a report to the Judiciary Committees of the Senate and the House of Representatives, the Senate Committee on Rules and Administration, and the House Committee on Administration on the review conducted under subsection (a) together with such recommendations for legislative and administrative action as the Attorney General determines appropriate.

SEC. 502. OTHER CRIMINAL PENALTIES.

(a) **CONSPIRACY TO DEPRIVE VOTERS OF A FAIR ELECTION.**—Any individual who knowingly and willfully gives false information in registering or voting in violation of section 11(c) of the National Voting Rights Act of 1965 (42 U.S.C. 1973i(c)), or conspires with another to violate such section, shall be fined or imprisoned, or both, in accordance with such section.

(b) **FALSE INFORMATION IN REGISTERING AND VOTING.**—Any individual who knowingly commits fraud or knowingly makes a false statement with respect to the naturalization, citizenry, or alien registry of such individual in violation of section 1015 of title 18, United States Code, shall be fined or imprisoned, or both, in accordance with such section.

SEC. 503. USE OF SOCIAL SECURITY NUMBERS FOR VOTER REGISTRATION AND ELECTION ADMINISTRATION.

(a) **IN GENERAL.**—Section 205(c)(2) of the Social Security Act (42 U.S.C. 405(c)(2)) is amended

by adding at the end the following new subparagraph:

“(1)(i) It is the policy of the United States that any State (or political subdivision thereof) may, in the administration of any voter registration or other election law, use the social security account numbers issued by the Commissioner of Social Security for the purpose of establishing the identification of individuals affected by such law, and may require any individual who is, or appears to be, so affected to furnish to such State (or political subdivision thereof) or any agency thereof having administrative responsibility for the law involved, the social security account number (or numbers, if such individual has more than one such number) issued to such individual by the Commissioner of Social Security.

“(ii) For purposes of clause (i), an agency of a State (or political subdivision thereof) charged with the administration of any voter registration or other election law that did not use the social security account number for identification under a law or regulation adopted before January 1, 2002, may require an individual to disclose his or her social security number to such agency solely for the purpose of administering the laws referred to in such clause.

“(iii) If, and to the extent that, any provision of Federal law enacted before the date of enactment of the Equal Protection of Voting Rights Act of 2002 is inconsistent with the policy set forth in clause (i), such provision shall, on and after the date of the enactment of such Act, be null, void, and of no effect.”

(b) CONSTRUCTION.—Nothing in this section may be construed to supersede any privacy guarantee under any Federal or State law that applies with respect to a social security number.

SEC. 504. DELIVERY OF MAIL FROM OVERSEAS PRECEDING FEDERAL ELECTIONS.

(a) RESPONSIBILITIES OF SECRETARY OF DEFENSE.—

(1) ADDITIONAL DUTIES.—Section 1566(g) of title 10, United States Code, as added by section 1602(a)(1) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107; 115 Stat. 1274), is amended—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by striking paragraph (2) and inserting the following new paragraphs:

“(2) The Secretary shall ensure that voting materials are transmitted expeditiously by military postal authorities at all times. The Secretary shall, to the maximum extent practicable, implement measures to ensure that a postmark or other official proof of mailing date is provided on each absentee ballot collected at any overseas location or vessel at sea whenever the Department of Defense is responsible for collecting mail for return shipment to the United States. The Secretary shall ensure that the measures implemented under the preceding sentence do not result in the delivery of absentee ballots to the final destination of such ballots after the date on which the election for Federal office is held.

“(3) The Secretary of each military department shall, to the maximum extent practicable, provide notice to members of the armed forces stationed at that installation of the last date before a general Federal election for which absentee ballots mailed from a postal facility located at that installation can reasonably be expected to be timely delivered to the appropriate State and local election officials.”

(2) REPORT.—The Secretary of Defense shall submit to Congress a report describing the measures to be implemented under section 1566(g)(2) of title 10, United States Code (as added by paragraph (1)), to ensure the timely transmittal and postmarking of voting materials and identifying the persons responsible for implementing such measures.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 1602 of the National Defense Authoriza-

tion Act for Fiscal Year 2002 (Public Law 107-107; 115 Stat. 1274) upon the enactment of that Act.

SEC. 505. STATE RESPONSIBILITY TO GUARANTEE MILITARY VOTING RIGHTS.

(a) REGISTRATION AND BALLOTING.—Section 102 of the Uniformed and Overseas Absentee Voting Act (42 U.S.C. 1973ff-1), as amended by section 1606(a)(1) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107; 115 Stat. 1278), is amended—

(1) by inserting “(a) ELECTIONS FOR FEDERAL OFFICES.—” before “Each State shall—”; and

(2) by adding at the end the following:

“(b) ELECTIONS FOR STATE AND LOCAL OFFICES.—Each State shall—
“(1) permit absent uniformed services voters to use absentee registration procedures and to vote by absentee ballot in general, special, primary, and runoff elections for State and local offices; and

“(2) accept and process, with respect to any election described in paragraph (1), any otherwise valid voter registration application from an absent uniformed services voter if the application is received by the appropriate State election official not less than 30 days before the election.”

(b) CONFORMING AMENDMENT.—The heading for title I of such Act is amended by striking “FOR FEDERAL OFFICE”.

SEC. 506. SENSE OF THE SENATE REGARDING STATE AND LOCAL INPUT INTO CHANGES MADE TO THE ELECTORAL PROCESS.

(a) FINDINGS.—Congress finds the following:

(1) Although Congress has the responsibility to ensure that our citizens' right to vote is protected, and that votes are counted in a fair and accurate manner, States and localities have a vested interest in the electoral process.

(2) The Federal Government should ensure that States and localities have some say in any election mandates placed upon the States and localities.

(3) Congress should ensure that any election reform laws contain provisions for input by State and local election officials.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Department of Justice and the Committee on Election Reform should take steps to ensure that States and localities are allowed some input into any changes that are made to the electoral process, preferably through some type of advisory committee or commission.

SEC. 507. STUDY AND REPORT ON FREE ABSENTEE BALLOT POSTAGE.

(a) STUDY ON THE ESTABLISHMENT OF A FREE ABSENTEE BALLOT POSTAGE PROGRAM.—

(1) IN GENERAL.—The Election Administration Commission established under section 301 shall conduct a study on the feasibility and advisability of the establishment by the Federal Election Commission and the Postal Service of a program under which the Postal Service shall waive the amount of postage applicable with respect to absentee ballots submitted by voters in general elections for Federal office (other than balloting materials mailed under section 3406 of title 39, United States Code) that does not apply with respect to the postage required to send the absentee ballots to voters.

(2) PUBLIC SURVEY.—As part of the study conducted under paragraph (1), the Election Administration Commission shall conduct a survey of potential beneficiaries under the program described in such paragraph, including the elderly and disabled, and shall take into account the results of such survey in determining the feasibility and advisability of establishing such a program.

(b) REPORT.—

(1) SUBMISSION.—Not later than the date that is 1 year after the date of enactment of this Act, the Election Administration Commission shall submit to Congress a report on the study conducted under subsection (a)(1) together with

recommendations for such legislative and administrative action as the Commission determines appropriate.

(2) COSTS.—The report submitted under paragraph (1) shall contain an estimate of the costs of establishing the program described in subsection (a)(1).

(3) IMPLEMENTATION.—The report submitted under paragraph (1) shall contain an analysis of the feasibility of implementing the program described in subsection (a)(1) with respect to the absentee ballots submitted in the general election for Federal office held in 2004.

(4) RECOMMENDATIONS REGARDING THE ELDERLY AND DISABLED.—The report submitted under paragraph (1) shall—

(A) include recommendations of the Federal Election Commission on ways that program described in subsection (a)(1) would target elderly individuals and individuals with disabilities; and

(B) identify methods to increase the number of such individuals who vote in elections for Federal office.

(c) POSTAL SERVICE DEFINED.—The term “Postal Service” means the United States Postal Service established under section 201 of title 39, United States Code.

SEC. 508. HELP AMERICA VOTE COLLEGE PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—Not later than 1 year after the appointment of its members, the Election Administration Commission (in this section referred to as the “Commission”) shall develop a program to be known as the “Help America Vote College Program” (in this section referred to as the “Program”).

(2) PURPOSES OF PROGRAM.—The purpose of the Program shall be—

(A) to encourage students enrolled at institutions of higher education (including community colleges) to assist State and local governments in the administration of elections by serving as nonpartisan poll workers or assistants; and

(B) to encourage State and local governments to use the services of the students participating in the Program.

(b) ACTIVITIES UNDER PROGRAM.—

(1) IN GENERAL.—In carrying out the Program, the Commission (in consultation with the chief election official of each State) shall develop materials, sponsor seminars and workshops, engage in advertising targeted at students, make grants, and take such other actions as it considers appropriate to meet the purposes described in subsection (a)(2).

(2) REQUIREMENTS FOR GRANT RECIPIENTS.—In making grants under the Program, the Commission shall ensure that the funds provided are spent for projects and activities which are carried out without partisan bias or without promoting any particular point of view regarding any issue, and that each recipient is governed in a balanced manner which does not reflect any partisan bias.

(3) COORDINATION WITH INSTITUTIONS OF HIGHER EDUCATION.—The Commission shall encourage institutions of higher education (including community colleges) to participate in the Program, and shall make all necessary materials and other assistance (including materials and assistance to enable the institution to hold workshops and poll worker training sessions) available without charge to any institution which desires to participate in the Program.

(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other funds authorized to be appropriated to the Commission, there are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2002 and each succeeding fiscal year.

SEC. 509. RELATIONSHIP TO OTHER LAWS.

(a) IN GENERAL.—Except as specifically provided in section 103(b) of this Act with regard to the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.), nothing in this Act may

be construed to authorize or require conduct prohibited under the following laws, or supersede, restrict, or limit such laws:

(1) The Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.).

(2) The Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee et seq.).

(3) The Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.).

(4) The National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.).

(5) The Americans with Disabilities Act of 1990 (42 U.S.C. 1994 et seq.).

(6) The Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.).

(b) NO EFFECT ON PRECLEARANCE OR OTHER REQUIREMENTS UNDER VOTING RIGHTS ACT.—The approval by the Attorney General of a State's application for a grant under title II, or any other action taken by the Attorney General or a State under such title, shall not be considered to have any effect on requirements for preclearance under section 5 of the Voting Rights Act of 1965 (42 U.S.C. 1973c) or any other requirements of such Act.

SEC. 510. VOTERS WITH DISABILITIES.

(a) FINDINGS.—Congress makes the following findings:

(1) The Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) requires that people with disabilities have the same kind of access to public places as the general public.

(2) The Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee et seq.) requires that all polling places for Federal elections be accessible to the elderly and the handicapped.

(3) The General Accounting Office in 2001 issued a report based on their election day random survey of 496 polling places during the 2000 election across the country and found that 84 percent of those polling places had one or more potential impediments that prevented individuals with disabilities, especially those who use wheelchairs, from independently and privately voting at the polling place in the same manner as everyone else.

(4) The Department of Justice has interpreted accessible voting to allow curbside voting or absentee voting in lieu of making polling places physically accessible.

(5) Curbside voting does not allow the voter the right to vote in privacy.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the right to vote in a private and independent manner is a right that should be afforded to all eligible citizens, including citizens with disabilities, and that curbside voting should only be an alternative of the last resort in providing equal voting access to all eligible American citizens.

SEC. 511. ELECTION DAY HOLIDAY STUDY.

(a) IN GENERAL.—In carrying out its duty under section 303(a)(1)(G), the Commission, within 6 months after its establishment, shall provide a detailed report to the Congress on the advisability of establishing an election day holiday, including options for holding elections for Federal offices on an existing legal public holiday such as Veterans Day, as proclaimed by the President, or of establishing uniform weekend voting hours.

(b) FACTORS CONSIDERED.—In conducting that study, the Commission shall take into consideration the following factors:

(1) Only 51 percent of registered voters in the United States turned out to vote during the November 2000 Presidential election—well below the worldwide turnout average of 72.9 percent for Presidential elections between 1999 and 2000. After the 2000 election, the Census Bureau asked thousands of non-voters why they did not vote. The top reason for not voting, given by 22.6 percent of the respondents, was that they were too busy or had a conflicting work or school schedule.

(2) One of the recommendations of the National Commission on Election Reform led by

former President's Carter and Ford is "Congress should enact legislation to hold presidential and congressional elections on a national holiday". Holding elections on the legal public holiday of Veterans Day, as proclaimed by the President and observed by the Federal Government or on the weekends, may allow election day to be a national holiday without adding the cost and administrative burden of an additional holiday.

(3) Holding elections on a holiday or weekend could allow more working people to vote more easily, potentially increasing voter turnout. It could increase the pool of available poll workers and make public buildings more available for use as polling places. Holding elections over a weekend could provide flexibility needed for uniform polling hours.

(4) Several proposals to make election day a holiday or to shift election day to a weekend have been offered in the 107th Congress. Any new voting day options should be sensitive to the religious observances of voters of all faiths and to our Nation's veterans.

SEC. 512. SENSE OF THE SENATE ON COMPLIANCE WITH ELECTION TECHNOLOGY AND ADMINISTRATION REQUIREMENTS.

It is the sense of the Senate that full funding shall be provided to each State and locality to meet the requirements relating to compliance with election technology and administration pursuant to this Act.

SEC. 513. BROADCASTING FALSE ELECTION INFORMATION.

In carrying out its duty under section 303(a)(1)(G), the Commission, within 6 months after its establishment shall provide a detailed report to the Congress on issues regarding the broadcasting or transmitting by cable of Federal election results including broadcasting practices that may result in the broadcast of false information concerning the location or time of operation of a polling place.

SEC. 514. SENSE OF THE SENATE REGARDING CHANGES MADE TO THE ELECTORAL PROCESS AND HOW SUCH CHANGES IMPACT STATES.

It is the sense of the Senate that—

(1) the provisions of this Act shall not prohibit States to use curbside voting as a last resort to satisfy the voter accessibility requirements under section 101(a)(3);

(2) the provisions of this Act permit States—

(A) to use Federal funds to purchase new voting machines; and

(B) to elect to retrofit existing voting machines in lieu of purchasing new machines to meet the voting machine accessibility requirements under section 101(a)(3);

(3) nothing in this Act requires States to replace existing voting machines;

(4) nothing under section 101(a) of this Act specifically requires States to install wheelchair ramps or pave parking lots at each polling location for the accessibility needs of individuals with disabilities; and

(5) the Election Administration Commission, the Attorney General, and the Architectural and Transportation Barriers Compliance Board should recognize the differences that exist between urban and rural areas with respect to the administration of Federal elections under this Act.

Amend the title so as to read: "An Act to require States and localities to meet uniform and nondiscriminatory election technology and administration requirements applicable to Federal elections, to establish grant programs to provide assistance to States and localities to meet those requirements and to improve election technology and the administration of Federal elections, to establish the Election Administration Commission, and for other purposes."

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ALLEN. Mr. President, I ask unanimous consent to speak for up to 20 minutes on the energy bill.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

The Senator may proceed.

NATIONAL LABORATORIES PARTNERSHIP IMPROVEMENT ACT OF 2001—Continued

Mr. ALLEN. Mr. President, I rise today to discuss the much needed energy security legislation that is before the Senate.

This week, at the very moment we debate this very important landmark legislation, we are seeing a confluence of factors in our energy supply and demand that amounts to what one might call the "perfect storm."

There have been few other times in the history of our nation where we have seen such a stark demonstration that our national security interests are synonymous with our energy security. And here are—in this "perfect storm"—the various storm fronts that are coming together and colliding to produce some very ominous results for the American people, their families, and small businesses.

The travel season is heading into its annual peak as more and more Americans hit the road, and those numbers are higher than usual because of people's fear of flying or the aggravation, the stress of commercial air travel due to security concerns and desires.

Refineries are also beginning their annual changeover from winter fuels to specially formulated, cleaner burning summer fuels that cost more to produce. Those increased costs at refineries, that are already running at near capacity, will be passed on to the American consumer.

In recent weeks, the Israelis have taken strong action to defend themselves from the escalating growth of heinous suicide bombings in Israel.

In response to all of this, the dictator of Iraq, Saddam Hussein, has pledged to embargo Iraq's oil exports for 30 days or until Israel withdraws from Palestinian territories.

The Associated Press quoted Saddam as saying:

The oppressive Zionist and American enemy has belittled the capabilities of the [Arab] nation.

Combine all of these factors together, and the price of gasoline has increased about 25 cents a gallon in just the last few weeks. This is the sharpest increase in a 4-week period since the year 1990, right before the gulf war.

The price of a barrel of oil has risen to about \$26 a barrel as of yesterday, and many projections indicate the price will spike to more than \$30 a barrel.

The problem is one of basic economics that a fourth grade student in Virginia would understand, or as the Presiding Officer would certainly agree, a fourth grade student in West Virginia

as well. I hope that the Senate also understands this very basic, simple matter of high demand and inadequate supply. Even as the demand for oil is rising, supply is constrained this year because the nations in OPEC have cut production since the end of the year 2000 by a total of about 5 million barrels of oil per day.

The result is financial hardship for families and enterprises that pay more out of pocket for their basic transportation needs. It is a loaded weapon aimed at our economy, which appears to be moving slowly on the road to recovery.

I wholeheartedly support a balanced energy policy, including conservation and new, advanced technologies, such as hydrogen-fuel-cell-powered vehicles, electric vehicles, hybrid vehicles, and clean coal technology. We are the "Saudi Arabia of coal." I know the Chair shares my desire in working for clean coal technologies—and also solar photovoltaic technology.

But at the same time, we must increase our American-based production to become less reliant and dependent on foreign sources of oil.

Rising tensions in the Middle East will further increase our prices at the gas pump, damage job opportunities, and take more money from working people. This increased cost in fuel will ultimately cause an increase in the cost of goods and products, 95 percent of which come by truck to some store or directly to your home.

Please be aware that the United States continues to import nearly 1 million barrels a day from Saddam Hussein. This is the same man who turns around and compensates the families of suicide bombers at a rate of \$25,000. You could say that the compensation for 1 murderer is equivalent to about 900 barrels of oil that the United States and other nations buy from Saddam Hussein. We can no longer afford to let Saddam Hussein quite literally put us over the barrel.

At a time when Iraq is calling for an OPEC embargo on oil sales to America, environmentally safe production in a small and desolate place on the barren Arctic Plain on the North Slope of Alaska could alone replace more than 35 years of Iraqi oil imports. The potential is enormous for large oil reserves relatively near that of the current production at Prudhoe Bay—about 16 billion barrels. Conservative estimates state that ANWR has more oil than all of Texas.

I read that the Senator from Connecticut yesterday said it would take 10 years to get oil flowing from the North Slope of Alaska and this ANWR area. Let's assume it would take 10 years. Maybe this decision should have been made 10 years ago. Indeed, this Senate, in 1995, as well as the House, passed exploration permission legislation in 1995. Unfortunately, that legislation and that permission to explore ANWR was vetoed by the President in 1995. If that had not been vetoed, that oil would be flowing and we would not have as great a dependence on foreign oil, much less Saddam Hussein.

Also, there are groups of opponents. Many of those groups were also the opponents who were against the Prudhoe Bay production several decades ago. Thank goodness, reason and security prevailed and we are getting oil through the pipeline from Prudhoe Bay.

The reality is, with the infrastructure and the Trans-Alaska Pipeline less than about 50 miles away, just a few years of work are needed to get oil flowing from ANWR. The pipeline is already built. We just need to get that 50 mile span built from Prudhoe Bay to the exploration site at ANWR. It is not quite the magnitude of a project back in the 1970s.

The amount of oil we will be getting from there is about the same as what we could replace from 30 years of Saudi Arabian imports. And on top of it all, there are estimates—I will admit this is on the high side—of the creation of as many as 735,000 new jobs. The estimated oil at ANWR is valued at more than \$300 billion, which could replace a large portion of foreign oil imports and clearly create hundreds of thousands of jobs for our economy.

Again, the North Slope of Alaska, the Arctic Plain, or ANWR, is not some mountainous, beautiful sanctuary. It is a flat, barren, cold, inhospitable place, and the small local population nearby is virtually unanimous in its desire to see the utilization of the resources beneath that frozen tundra. As it is very nearby, and similar to Prudhoe Bay, and as has been seen from studies, there will be no adverse impact on caribou or mosquitoes, which are plentiful in the summer, or other flora and fauna.

I support environmentally responsible exploration and production at ANWR to help at least ameliorate our dependence on OPEC. The announcement of curtailed exports by Iraq should remind us more than ever that our economy and national security will remain bound together as long as we allow tyrants and despots to control our destiny.

In addition to the Middle East, the political dispute in Venezuela has left their oil industry crippled as labor groups have staged a nationwide strike.

Simply put, we are entirely too dependent on foreign oil and we must expand our domestic production. We must also improve our energy security by identifying and developing new energy opportunities. Diversification of energy supplies is basic to our comprehensive national energy policy. We should encourage new, cooperative trade arrangements and new resources in willing prospects throughout the world.

All of these initiatives, discussions, and cooperative efforts are aimed at fulfilling just one part of our national energy policy, which is the diversification of our international sources of supply.

A commonsense, comprehensive, long-term energy plan will get us off this roller coaster of restrictive supply

and demand that we have ridden for the past several decades. We must not allow the Saddam Husseins of the world to jerk us around and actually run that roller coaster.

President Bush's energy plan is comprehensive. It combines conservation and incentives for the development of alternative energy sources. I look forward to voting for tax incentives for alternative-fueled vehicles. It also includes increased domestic production. An energy policy without all of these components will not be effective.

We have a responsibility to the American people to address these challenges head on. If you think the situation is dire today, take a look just a short time from now into the future. Over the next 20 years, U.S. oil consumption is projected to increase by 33 percent and demand for electricity is projected to increase by 45 percent. Our dependence on foreign sources of oil will grow from 55 percent today to 64 percent by the year 2020. This compares to just 42 percent from foreign sources less than 10 years ago.

Clearly, we can see that something must be done, and soon. I am committed to working for commonsense solutions based upon sound science and the best available technologies so that all Americans can have affordable, reliable access to energy to fuel our motor vehicles, our homes, our farm operations, and our business operations across America.

I am also committed to making fuller use of the resources we have within our own borders in States that are supportive. While there may be oil off the coast of California, the people of California are opposed to oil development off their coast. Therefore, I respect their desires and would not support oil exploration off California.

In Alaska, Republicans, Democrats, Eskimos, Indians, all people are overwhelmingly in favor of production in ANWR.

There are other groups that support production on the North Slope of Alaska—groups such as the Vietnam Veterans Institute. I quote from them:

War and international terrorism have again brought into sharp focus the heavy reliance of the U.S. on imported oil. During these times of crises, such reliance threatens our national security and economic well-being. . . . It is important that we develop domestic sources of oil.

Organized labor. This is from Jerry Hood of the International Brotherhood of Teamsters:

America has gone too long without a solid energy plan. When energy costs rise, working families are the first to feel the pinch. The Senate should follow the example passed by the House and ease the burden by sending the President supply-based energy legislation to sign.

The Hispanic community. I quote from Mario Rodriguez, president of the United States-Mexico Chamber of Commerce:

We urge the Senate leadership to pass comprehensive energy legislation. This is not a partisan issue. Millions of needy Hispanic families need your support now.

From Jewish organizations, Mort Zuckerman, chairman of the Conference of Presidents of Major American Jewish Organizations:

The [Conference] at its general meeting on November 14th unanimously supported a resolution calling on Congress to act expeditiously to pass the energy bill that will serve to lessen our dependence on foreign sources of oil.

African-American groups. Harry Alford, chairman of the National Black Chamber of Commerce, states:

Our growing membership reflects the opinion of more and more Americans all across the political spectrum that we must act now to end our dependence on foreign energy sources by addressing the nation's long-neglected energy needs.

And Bruce Josten of the U.S. Chamber of Commerce stated:

The events of September 11 lend a new urgency to our efforts to increase domestic energy supplies and modernize our nation's energy infrastructure.

The point of all this is that it has broad, bipartisan support across the country, not just in Alaska. I also add that this is not simply a matter of our economic security our physical security is also at stake.

I challenge my colleagues to join Americans in this effort. Let's make America the most technologically advanced nation in the world for new sources of energy to propel our motor vehicles and to provide clean, efficient electricity. Let's also make sure we are less dependent upon unpredictable and, in some cases, threatening foreign sources of oil. Let's control our own destiny more than we have in the past. Let's move forward united for America's bright future.

Thank you Mr. President and I yield the floor.

The PRESIDING OFFICER. The Chair heard a clap from the gallery. Those here now, or at any time in the future, if that occurs again, they will be removed by the Sergeant at Arms under the rules of the Senate. That is not allowed and will not be tolerated.

The Senator from Nebraska is recognized.

AMENDMENT NO. 3114

Mr. NELSON of Nebraska. Mr. President, I ask unanimous consent to speak for up to 15 minutes in conjunction with my opposition to the Feinstein amendment, which has been introduced on the energy bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON of Nebraska. Mr. President, this amendment and other California amendments are outside the agreement and would negatively impact the renewable fuels standard contained in the bill. While I generally respect and certainly admire my colleagues from California, who are joined by my colleagues from New York in this particular situation, I must depart

from their point of view and take this opportunity to explain that the facts do not support their amendment.

The renewable fuels standard is the culmination of 20 years of sound public policy. We have all worked at the State, local, and Federal levels to make sure we have brought together the best kind of public policy for energy as it relates to renewable fuels. This standard will almost triple production of biofuels over the next 10 years. The RFS, as it is known, will accelerate the biorefinery concept so that a wide range of cellulosic biomass feedstocks will cost-effectively be converted into biofuels, bioelectricity, and biochemicals.

Enactment of the RFS, along with other provisions in this bill, will emphasize new sources of energy production from biomass to wind power, as well as conservation, to further reduce our dependence upon foreign sources of energy. As the previous speaker, my colleague, Senator ALLEN, pointed out, this 100-year-old reliance on fossil fuels and on fuels from unstable parts of the world has put us in a position of instability. So this RFS is essential in helping us reverse this 100-year-old reliance on fossil fuels and on unstable governments. Enactment of this bill will strengthen national and energy security and improve our environment at the same time.

If you will look at this poster, according to a recent study conducted by AUS Consultants, adoption of the RFS will:

... displace 1.6 billion barrels of oil over the next decade; reduce our trade deficit by \$34.1 billion; it will increase new investments in rural communities by more than \$5.3 billion—and this is all domestic, all money that will inure to the benefit of Americans. It will also boost the demand for feedgrains and soybeans by more than 1.5 billion bushels over the next decade; it will create more than 214,000 new jobs throughout the U.S. economy, and it will expand household income by an additional \$51.7 billion over the next decade.

These days, we are witnessing substantial increases in gasoline prices at the pump because of disruption and turmoil in the Middle East. Gasoline prices are not going up because we are using ethanol; they are rising because we are not using enough ethanol. Over the next 10 years, the renewable fuels standard in S. 517 would increase United States gasoline supplies to 5 billion gallons per year in 2012, slightly less than the volume of crude oil we currently import from Iraq. That will come from the addition of these biofuels that will come from the renewable fuels standard. It will be bad public policy for us to eliminate the existing oxygenate standard without replacing it with the renewable fuels standard. That is exactly what S. 517 does.

I congratulate California Governor Gray Davis for his support of the RFS section of S. 517. He recently declared:

Let's let the Daschle bill pass, have a nice schedule that will affect the entire country, phase in ethanol and protect the environment.

He also said:

All we need to do is use about 250 or 275 million gallons of ethanol, which we already do and are prepared to do in the future.

Governor Davis recently delayed his ban on MTBE in California for 1 year, coinciding with the initiation of the renewable fuels standard, RFS, and his acceptance of that RFS package is the best option to meet California's current and certainly its future gasoline needs. This, in large part, is due to the fact that a Federal RFG with an MTBE ban would require about 700 million gallons of ethanol annually in California.

The next alternative would be a program to eliminate the current minimum oxygen standard, a ban on MTBE, and retain the existing winter-time carbon monoxide program using ethanol. This would require about 500 million gallons of ethanol annually.

In contrast, the Daschle-Lugar-Nelson RFS requires California refiners to use only about 250 million gallons of ethanol annually.

Finally, the RFS provision contained in the bill allows "credit training," which provides the option of reducing California's ethanol use to zero, with a cost of less than 2 cents per gallon.

Lest anyone thinks this is somehow a plan or decision by the States in the Midwest to support their own economies to the detriment of economies elsewhere, Governor Pataki from New York, and Governor Shaheen of New Hampshire, representing the Northeast States for Coordinated Air Use Management, and other Governors belonging to the Governors' Ethanol Coalition, have also signed a joint letter supporting the renewable fuels standards. These are Governors from all over the country.

I also remind my colleagues that the RFS agreement was unprecedented in that it was accepted through the extensive and cooperative work of the ethanol and biodiesel industries, their associations, most farm and agricultural groups, the environmental and renewable energy communities, and the American Petroleum Institute.

All of us, each and every one of us, is aware of how dangerously close we are to an overdependence on imported oil. As Senator ALLEN said, currently we are over 56 percent dependent on foreign sources, and it will rise to over 60 percent in the very near future.

Too many of these supplies come from troubled nations in the Middle East, the Caspian Basin, and Indonesia where almost 80 percent of the world's reserves are located.

As our colleague from North Dakota, Senator DORGAN, warned recently, we must recognize this vulnerability because it also extends to the potential of terrorist attacks on oil supply lines. An attack on our oil supply lines anywhere in the world would have us on our backs overnight.

The RFS is critical to the process of reducing our dependence on oil imports

through the advancement of domestically dispersed renewable and environmentally benign technologies that will generate new industries, high-quality jobs, economic activity, and rural development, while at the same time expanding national and local tax bases. This is, in fact, a win-win for everyone in America.

Ethanol opponents claim that it takes more energy to make ethanol than is contained in the fuel. This is simply not the case. The most recent USDA report shows an increase in the net energy balance of corn ethanol from 1.24 in 1995 to 1.34 in 2002, and that new technologies continue that improvement. Furthermore, only 17 percent of the energy that goes into farming and ethanol plant operations is from liquid fuels, and with the advent of biodiesel and advanced farming practices, this number continues to drop and will continue to do so into the future.

Some opponents also claim that the price of gasoline could double. The issue of consumer cost is clearly important to all sectors of our Nation, certainly to the Midwest as well as to the West and the East. But historically, ethanol serves as a buffer to higher prices. It does so by actually extending supplies. It provides an alternative to costly imported oil and leverage for independent gasoline marketers to compete against the larger, more powerful integrated oil companies.

According to the Society of Independent Gasoline Marketers of America:

The Federal benefits afforded ethanol-blended fuels have been an important pro-competitive influence on the Nation's gasoline markets. By enhancing the ability of independent marketers to price compete with their integrated oil company competitors, this program has increased independent marketers' economic viability and reduced consumers' costs of gasoline.

On April 8 in Los Angeles, San Francisco, and the New York metropolitan areas, the price of ethanol-blended premium midgrade and regular ranged from .0133 to .0327 cents per gallon. So availability is not going to be a problem and neither is price.

Today and into the near future, ethanol will be in abundant supply because of market conditions and all the new plants that will be coming online.

This chart shows the past, present, and predicted growth of the ethanol capacity, and one can see that as it goes into this new century, the incline is rather steep. Some worry about ADM's control over the market and their ability to control prices, but their influence is dissipating, being replaced by farmer, rancher, and community-owned plants. It is not concentrated within only one industry or within one producer. It is widely spread out over all kinds of operations, from the small to the medium size to the large.

To attack some other myths, there are some claims that ethanol does not contribute to cleaner air, and that is not true. There is no question that eth-

anol blends reduce carbon monoxide and carbon dioxide, but most areas with polluted air are worried about ozone.

The good news is that 3 years of clean air quality data in the Chicago/Milwaukee area show that it is possible to effectively reduce ozone emissions while using ethanol blends. These blends also reduce air toxins, such as the carcinogen benzene.

The defeat of the renewable fuels standard in S. 517 would be a great loss to the national energy and economic security of the United States. The real tragedy would be a further loss to the Europeans as they advance their bio-refinery technology to produce biofuels, bioelectricity, and biochemicals from a wide range of biomass, including much of which is wasted or ends up in landfills.

If there is a myth that somehow this is going to simply affect our food supply by providing alternative use, it is very clear to understand that ethanol can be made from any kind of biomass, including that which is waste, that which is garbage, that which is discarded and ends up in landfills.

As technology continues to increase, we will have more and more sources for a renewable resource that will come from those production sources that currently have other means of disposal. Unfortunately, some of them are disposed only in landfills.

The RFS provides a credit of 1.5 for biofuels made from cellulosic biomass, oilseeds, tallow, animal fat, and yellow grease compared to 1 credit for ethanol made from starch and sugar crops; that is, every gallon of these fuels is equal to 1.5 gallons in meeting the renewable fuels standards. In fact, it does go to other kinds of biomass. Consequently, the RFS will provide the stimulus and the market for biofuels needed to produce the next generation of bio-refineries.

In the past, it has always been the question of how you can create the demand or whether you create the supply and hope, in fact, it will create the demand. This bill with the RFS in it creates both the demand and the opportunity and the incentive for more supplies in a cost-effective and a very environmentally friendly and very economically friendly manner.

During my two terms as Governor, I watched firsthand as the private sector invested hundreds of millions of dollars in new community-based ethanol plants. We went from one operating plant to more than seven when I left, and there continues to be more plants built around the State and a great deal of interest in further expanding the plants, depending on the passage of S. 517.

These investments occurred primarily in response to the demand created by the Clean Air Act's oxygenate requirements. Not one of those plants is owned by AD in Nebraska. Farmers and ranchers own most of them.

The ethanol industry in Nebraska has been one of the few bright spots in

an otherwise underperforming agricultural economy, thereby creating quality jobs, increasing farm income, and, in some instances, maybe providing the only farm income by adding value to farmers' products and expanding local tax bases.

This is, in fact, sound public policy, and we should be doing more, not less, of it. If we are going to eliminate the oxygen requirement that has been proposed, then we must be sure to put in its place the renewable fuels standard in S. 517. The RFS is sound public policy. The provision will increase gasoline supplies and consequently serve to lower gasoline prices. It will have a positive impact on the Farm Belt economy and also reduce energy costs for other areas of the country. This is truly a national plan to control costs, spur economic activity, and reduce our dependence on foreign oil.

I ask my colleagues to vote to preserve the historic agreement manifested in the RFS. To do otherwise will certainly face us in the wrong direction, a step backwards, into deeper dependence on imported oil.

I thank the Chair, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. NELSON of Nebraska. 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. NELSON of Nebraska. If I still have time left, I am happy to use it.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. NELSON of Nebraska. Mr. President, earlier today, my colleagues from California and New York quoted extensively from an Energy Information Agency report which they said indicated the RFS would result in gasoline price increases from 4 cents to almost 10 cents per gallon.

We have read this report, and it is difficult for us to understand how they arrived at those cost figures when our reading of the report sets the increase at prices up to 1 cent per gallon for reformulated gasoline and up to a half a cent per gallon compared to the referenced case. This is with the reformulated fuel standard without the MTBE ban.

When there is an MTBE ban, there would then be a greater demand for gasoline that would drive prices up. The availability of ethanol to add volume as an additive and boost octane would put downward pressure on prices, which is what has been shown elsewhere in the country. So we are at a loss as to how that was arrived at.

There also was a suggestion there might be the possibility that ethanol-blended gasoline could extend the benzene plume and contaminate the ground water in the event of leaking tanks or spills.

Nebraska is the home of ethanol. It was first called gasohol. It has been

used extensively for the past 20 years. I have used it for as long as I can recall. There is absolutely no evidence of benzene-contaminated water supplies resulting from the use of ethanol in Nebraska, and we are not aware of anywhere else where ethanol has been used extensively or even modestly where there has been an increase in benzene.

It is going to boost the octane of gasoline, and I think most people looking at science will conclude it permits the reduction of aromatics, including benzene. We found that ethanol-blended gasoline in Nebraska has considerably less aromatics than unblended gasoline, and we do not understand nor do we follow the logic or the facts that have been presented.

I think it is important to consider the fact we must, indeed, reduce our reliance on foreign sources of oil, and we must, in fact, expand the opportunity for renewable resources so we are not reliant on foreign sources of oil. When we can do this in an environmentally friendly way, and at the same time have the economics of the country advanced, it seems only too sound of logic to conclude we should go the other way. We must, in fact, move forward with the RFS.

So I call on those who would have other information to return and let us debate the issue on the facts as they are.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. LEVIN). The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. HAGEL. 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. HAGEL. Mr. President, I wish to speak on the Feinstein amendment for up to 15 minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. HAGEL. Thank you, Mr. President.

Mr. President, in the wake of September 11, America and the rest of the free world now face dramatic new challenges as certainly evidenced by our Secretary of State being in the Middle East today. There are serious consequences to these great challenges. Energy independence is one of these challenges.

Today, less than 1 percent of America's transportation fuel comes from renewable sources. In the energy bill we are debating today renewable fuel would increase to approximately 3 percent of our total transportation fuel supply by 2012.

A few weeks ago, the Senate approved the renewable portfolio standard for electricity which mandates that 10 percent of all electricity must come from certain renewable sources. I note that my colleagues from California and New York in particular voted in favor of that renewable electricity mandate which the Department of Energy has

estimated will cost the ratepayers of America about \$88 billion through 2020.

I note also that my colleagues from California and New York voted for a 20-percent renewable electricity standard. Yet, as I heard this morning, they oppose a 3-percent renewable fuel standard. What is the difference between the renewable fuel standard and the renewable electricity standard?

Here is the difference.

Today, we spend about \$300 million per day on foreign oil imports. We are nearing 60 percent of the total use of our oil coming from other nations. We spend \$12 million a day on Iraqi oil alone—we used to. We did until Saddam Hussein announced this week that Iraq would halt its exports of oil for a month.

With Iraq capping its production, Venezuela imploding, and other producers such as Iran, Libya, and Nigeria sending very troubling signals to the world, America must develop an accountable, responsible, relevant, and workable energy policy that will replace the oil we now import with alternative fuels and renewable fuels produced here in the United States.

Despite the regional differences that sometimes arise, this renewable fuel standard is good for all America. That has been highlighted by the fact that this standard has broad bipartisan support in the Congress. It has been endorsed by a majority of Governors, Democrat and Republican; the Bush administration; agricultural and environmental groups; and the oil and gas industry.

Consider that this standard would replace 66 billion gallons—1.6 billion barrels—of foreign crude oil by 2012. It would reduce the U.S. trade deficit by as much as \$34 billion.

The renewable fuel standard in the energy bill we debate today would also bring a needed boost to our economy. This single provision would create 214,000 jobs nationwide—not in the Midwest but nationwide. It would create \$5.3 billion in new investment nationwide. It would increase household income by \$52 billion nationwide. It would increase net farm income by \$6.6 billion a year, reducing the amount spent on the farm price support program that we are now debating in a conference committee, trying to resolve the differences between the House and Senate agriculture bills. Unfortunately, since this landmark agreement was announced, the opponents of renewable fuels have distorted facts and tried to undermine our bipartisan compromise.

My colleagues from California and New York stated this morning that the renewable fuel standard would result in substantially higher prices at the gas pump. However, they fail to mention that the report by the Energy Information Administration at the Department of Energy stated that over 90 percent of any increased costs would come from the phaseout of MTBE.

They also failed to note that the recent reports by the Energy Information

Administration and the GAO did not take into account the important fact that 13 States have already banned the use of MTBE. The fact is, any increased cost at the pump would be very minimal at most—perhaps a half cent a gallon—if there is an increased cost.

This standard does not require a single gallon of renewable fuel be used in any particular State or region. The additional flexibility provided by the credit trading provisions will result in much lower cost to refiners, and thus, to consumers. Renewable fuels will be used where they are most cost effective.

Others claim since renewable fuels are largely produced in the Midwest, this standard will require substantial investments in increased transportation costs. Again, not true. Ethanol has already transported cost effectively from coast to coast via barge and railcar. An analysis completed in January by the Department of Energy concluded that no major infrastructure barriers exist to expanding the U.S. ethanol industry to 5.1 billion gallons per year, which is comparable to the renewable fuel standard in the energy bill.

I also would like to point out that it is 7,666 miles direct from Baghdad to Los Angeles. It is 1,150 miles from Hastings, NE—home of two ethanol plants—to Los Angeles. If we can transport oil that we pay Saddam Hussein for from Iraq to the United States, we can surely transport ethanol across the United States cost effectively and certainly in the best security interests of our country.

Some have claimed there are not adequate supplies of renewable fuel to meet the demand created by this standard. That is not true. One look at the ethanol industry shows that it has been growing substantially in recent years. It has been growing in anticipation of the phaseout of MTBE—particularly in California.

According to the Renewable Fuels Association, 16 new ethanol plants—14 of them farmer-owned cooperatives, not big companies, which I heard this morning as well, not big companies, but individuals, small farmers banding together, small businesspeople banding together to build cooperatives—several of these expansions have been completed and new ones are being built. Thirteen additional plants are now currently under construction.

A survey conducted by the California Energy Commission concluded that the ethanol industry will have the capacity to produce 3.5 billion gallons a year by the end of 2004, and that capacity could double by the end of 2005. With the standard beginning in 2004 at 2.3 billion gallons, that means there will be an adequate amount of renewable fuel to provide the additional volume needed.

Even with those assurances, we have included in this amendment additional safeguards. If the standard is likely to result in significant adverse consumer impacts, then the EPA Administrator

has the authority to reduce the volumes. Also, upon the petition of a State—any State—or by EPA's own determination, the EPA may waive the standard, in whole or in part, if it determines the standard would severely harm the economy or the environment of a State, a region, or the country.

Even more ludicrous is this claim by some who say the phaseout of MTBE will result in a shortage of fuel supplies. That is not true. Remember this agreement calls for a 4-year phaseout of MTBE.

The large expansion of the renewable fuel industry will easily cover the loss of MTBE, given this 4-year notice. As an example, in California, where polls show that more than 76 percent of the people of California support a ban on MTBE, the fuel industry is ready to make the transition from MTBE to renewable fuel. Why in the world do we think the oil companies agreed to this standard if they thought it could not be met?

All six California refiners are ready to use ethanol now, today. Both the ethanol industry and the California refining and transportation system have spent billions of dollars preparing to use ethanol.

I also keep hearing references to ethanol as an untested fuel. Ethanol has been used across this country successfully for more than 20 years. It is hardly untested. But I also note that the California Environmental Protection Agency completed a comprehensive analysis of ethanol's environmental and health impacts, giving it a clean bill of health, before approving ethanol for use as a replacement to MTBE.

Ethanol has helped the Chicago area become the only ozone nonattainment area in the country to come into compliance with the national ozone standard. Ethanol has been tested, and it has passed. And one of the reasons that Chicago has found itself in that unique position is because of its use of ethanol.

President Bush has proclaimed the promise of renewable fuels by saying recently:

Renewable fuels are gentle on the environment, and they are made in America so they cannot be threatened by any foreign power.

As former President Clinton said during his administration:

Ethanol production increases farm income, decreases deficiency payments, creates jobs in America, and reduces American reliance on foreign oil.

Both Presidents Clinton and Bush are absolutely right. This renewable fuel standard is good for all of America.

I, again, ask my colleagues to support the renewable fuels agreement in the Senate energy bill that we debate today. I do oppose any amendments that would undermine this carefully crafted agreement.

In conclusion, before I yield the floor, I wish to respond to a comment I heard this morning from one of my colleagues from New York. I believe he mentioned something to the effect that

an ethanol bill in Nebraska failed. I am not sure what his point was. But, for the record, and for the edification of all who heard that, and especially my colleague, last year the Nebraska Legislature tried to mandate that every gas station—every gas pump—in the State sell an ethanol blend. Now, that is a bit different—completely different—if that was the parallel attempted to be drawn from this standard, this bipartisan standard that we have agreed to that is currently in the present energy bill.

I yield the floor.

The PRESIDING OFFICER (Mrs. CARNAHAN). The Senator from Iowa.

Mr. GRASSLEY. Madam President, I thank the Senator from Nebraska for his leadership in opposition to this amendment, and more importantly for his leadership over the last several months in bringing together unity on this issue that is both bipartisan as well as across industry and economic sectors.

Madam President, there was a time when the States of New York and California were represented by Senators who supported requiring the use of ethanol and other domestic alternative fuels.

In fact, there was a time, less than 3 years ago, when two of the current California Senators and the senior Senator from New York, voted in favor of replacing MTBE with ethanol.

What has changed to cause these Senators to reverse themselves? I frankly don't know.

But there is one thing that has changed since the time New York and California were represented by Senators who supported replacing foreign fuel with domestic alternative and renewable fuels.

Today, more than ever, our national security is at risk because of our dependence upon foreign energy.

Today, more than ever, the Middle East oil and MTBE producers, have us literally, over the barrel.

More than ever. That is the biggest change since the time California and New York Senators supported replacing Middle East oil and MTBE with home grown renewable and alternative fuels.

Yet, today, they come to the floor of the Senate, to offer an amendment which will help assure that Middle East oil and MTBE producers maintain and increase their grip over the United States.

Today, 75 percent of the MTBE California uses, is produced by foreigners.

Saudi Arabia is the largest supplier of California MTBE.

In March of 1999, California's Governor, Gray Davis, issued an executive order, stating that by the end of 2002, all MTBE would be banned from California.

In August of 1999, Senator BOXER of California introduced a Senate resolution, calling for MTBE to be replaced by renewable ethanol. With the help of Senator FEINSTEIN and Senator SCHUMER, that resolution was adopted by

the Senate. That resolution underscored that renewable ethanol should replace MTBE. Why? It specifically stated that ethanol should replace MTBE to reduce our dependence upon foreign energy. It also stated that renewable ethanol should replace MTBE because MTBE was polluting drinking water.

Patriotic American farmers and ethanol producers, in direct response to these two initiatives by California's elected officials, invested \$1.4 billion of their hard earned money to increase ethanol production by 1 billion gallons a year.

By the end of this year, when MTBE was supposed to be banned in California, our Nation's farmers and ethanol producers will be able to produce 400 to 500 million gallons more than is necessary to replace all of California's MTBE.

The California Energy Commission conducted a survey and concluded that by the end of 2004, U.S. ethanol production capacity will reach 3.5 billion gallons a year.

The renewable fuels standard, which these Senators want to gut, requires only 2.3 billion gallons of ethanol to be used starting in 2004. So even by the California Energy Commission's admission, the United States will be producing 1.2 billion gallons above and beyond what is required under the renewable fuels standard.

We are awash in ethanol produced in America's Midwest, yet 3 weeks ago, the Governor of California announced that MTBE can be used for another whole year. It doesn't make sense. Some elected officials would rather force their consumers to use MTBE from the Middle East, instead of ethanol from America's Middle West. They can't seriously be worried about motor fuel prices. How can increasing and diversifying your sources of energy, increase the price of your product?

Today, California has only seven refiners, and its two largest sources for MTBE are foreign. In sharp contrast, there are 61 ethanol plants in 19 States in the United States—two of which are in California.

The California Energy Commission has determined that fuel without oxygenates, such as MTBE or ethanol, will actually be more expensive.

In a recent report, the commission explained and I quote—"non-oxygenated reformulated alternatives are not necessarily easier to produce (than ethanol RFG), would involve significant capacity loss, and would require even more complex logistics."

A recent poll of Californian opinion, conducted by the California Renewable Fuels Partnership, found that 76 percent of likely voters support banning MTBE because we can't afford the pollution caused by MTBE. Only 13 percent of those polled thought that it was a bad idea to ban MTBE because of potential higher gasoline prices.

The concerns expressed by opponents of the renewable fuels standard don't stand up to the facts.

So it boils down to this: If you want to take a positive step toward helping our Nation become less dependent upon foreign energy and the Middle East and to encourage the development of jobs and family income here in the United States, then join me in defeating this attempt to gut the renewable fuels standard.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BOND. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Madam President, I rise today to address the amendment introduced by my colleagues from New York and California to do away with the renewable fuel standard. I think it is important that we correct some of the misunderstandings, misapprehensions, and misstatements of fact that have gone on in this debate.

First, what does the bill do and what does it not do? The fact is that S. 517 does not require that a single gallon of renewable fuels be used in any particular State or region. The additional flexibility provided by the RFS credit trading system provisions of S. 517 will result in a much lower cost to refiners and thus to consumers. The credit trading system will ensure that ethanol is used where it is most effective.

Now, according to one of the leaders in the petroleum industry, ChevronTexas:

The free market will not allow a California price differential of 20-30 cents a gallon to be sustained. The market will always find a way to take advantage of a much smaller differential.

Furthermore, a nationwide Federal MTBE ban provides certainty for investments and eliminates the greater use of boutique fuels, thereby lowering gasoline prices. The continuation of current policy whereby States may ban MTBE without any regard to regional coordination is more costly than a uniform Federal ban.

Increasing the use of renewable fuels, such as ethanol and biodiesel, diversifies our energy infrastructure, making it less vulnerable to acts of terrorism and increases the number of available fuel options, increasing competition, and reducing consumer costs of gasoline.

A review of the publicly available price information demonstrates that ethanol has been consistently less expensive per gallon in net cost to refiners than MTBE for the last 3 years. In fact, the March 4 issue of Octane Week quotes MTBE at 89 cents per gallon and ethanol at just 60 cents per gallon. Instead of higher prices, ethanol would lower pump prices. While this is undeniably true in conventional gasoline, it is also true in RFG areas. Refiners do incur a small cost per gallon to

produce the RFG ethanol blendstocks, but the lower ethanol price more than makes up for the difference. Thus, replacing MTBE with ethanol should lead to reduced, not increased, consumer gasoline prices.

In other words, it is not accurate to say that the price in Missouri will rise 5.9 cents per gallon or 4 cents per gallon in Wyoming.

My good friend and colleague from New York tells me that in my home State of Missouri, gas prices as a result of the RFS will increase by 5.9 cents per gallon. He went on to tell us all that the increase is based on the unavailability of ethanol, the inability of us to get ethanol in Missouri.

I want to assure the senior Senator from New York that we produce a lot of corn in Missouri, and our friends seem to be ignoring all of the residual economic benefits of ethanol use.

For example, ethanol production increases personal and business income and results in a net savings to the Federal budget of \$3.6 billion annually.

Ethanol also adds over \$450 million to State tax receipts. Ethanol production reduces the taxpayer burden for unemployment benefits and farm deficiency payments.

When you raise the price of corn by increasing the demand, it cuts down on the amount of payments that are made under existing farm programs to people who raise corn.

Ethanol production reduces the unfavorable U.S. trade balance in energy by \$2 billion annually.

Ethanol production increases net farm income by \$4.5 billion, adding 30 cents to the value of every bushel of corn.

Ethanol reduces the consumer cost of gasoline by extending supplies, providing an alternative to more costly imported oil, and leverage for independent gasoline marketers to compete against the larger, more powerful, integrated oil companies.

A recent study found that doubling ethanol production would create nearly 50,000 new jobs, \$1.9 billion in economic development, and increase household incomes by \$2.5 billion.

Some may say: Isn't the ethanol program just corporate welfare? The simple answer is no. The ethanol tax credit is provided to gasoline marketers and oil companies, not ethanol producers, as an incentive to blend their gasoline with clean, domestic, renewable ethanol.

It is a cost-effective program that actually returns more revenue to the U.S. Treasury than it costs due to the increased wages, taxes, reduced unemployment benefits and, most importantly, reduced farm deficiency payments, while at the same time holding down the price of gasoline and helping the American farmer.

In summary, I encourage those who support the amendment against the renewable fuels standard to come out to the heartland where the occupant of the chair and I live to see Nebraska, to

see Missouri, and see what the industry is all about. They can learn the benefits of ethanol, soy diesel, biodiesel, the home-grown renewable fuels to the environment and to the communities and our economy, particularly our rural economy.

Come down to my State and see what the Missouri Corn Growers Association has done to provide value-added opportunities for Missouri farmers. The Missouri Corn Growers Association and the Missouri Corn Merchandising Council provided support for two groups of Missouri farmers seeking to add value to their corn production by processing corn into ethanol. In 1994, Golden Triangle Energy of Craig, MO, and Northeast Missouri Grain Processors of Macon, MO, organized as new generation cooperatives.

The latter, known as NEMOGP, broke ground for their plant on April 17, 1999. I was pleased, proud, and excited to be there. It is now producing 22 million gallons of ethanol per year, and they are in the process of doubling the capacity to make over 40 million gallons.

Similarly, the prospects at Craig are also very promising, and other groups of farmers are looking to build ethanol plants and to build soy diesel plants. We are growing it, we are processing it, we are producing it, and we are ready to sell it. It is going to be good for our trade balance, for our farmers, for our economy, and for the environment.

I believe when one goes to a station that offers the E85 plan—there are 100 of them nationwide: 1 in Kansas City, 2 in St. Louis, 2 in Jefferson City, MO, and they are expected to have more around the country. One can find out about the closest station by checking the Web site of the National Ethanol Vehicle Coalition. One will find one can get good cleaner burning ethanol blended gasoline, and it is available.

Before we decide we are going to back off from this very wise, multiple-benefit usage of renewable fuels, come see in the heartland what a positive deal this is and come see why we in Missouri—I assume my neighbors in States around us—are proud to be using E85 ethanol and B20 soy diesel.

I yield the floor. I urge my colleagues not to support the amendment. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. CARNAHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. CARNAHAN. Mr. President, I rise today to add my voice to those who support the ethanol provisions in this legislation. Ethanol is one of our most promising renewable resources. By blending ethanol with gasoline, we can reduce oil imports and reduce the environmental damage of vehicle emissions.

As America struggles to meet its growing energy needs, ethanol provides extraordinary opportunities. The product is made from corn. It can be produced in abundance, unlike other fossil fuels.

The more ethanol we use to fuel our cars and trucks, the less oil we need to import from hostile countries such as Iraq. Rather than looking to the Midwest for energy, we would be far better served to look to the Midwest.

This legislation lays out a plan for increasing the amount of ethanol Americans use to meet their transportation fuel needs.

I find it absurd that some claim these provisions are included in this bill simply for the benefit of ethanol producers. Ethanol is an environmentally safe and economically efficient way to reduce our dependence on foreign sources of oil.

In short, additional use of ethanol to meet our needs for transportation fuel will be good for our environment, good for our economy, and good for our national security interests. Not only do I support the renewable fuels standard we are debating today, I look forward to supporting an amendment that will be offered by the Finance Committee. That amendment incorporates several aspects of legislation that I introduced last year.

Specifically, it will expand eligibility for the tax credit available to small producers of ethanol. These changes will ensure that farmer-owned cooperatives are eligible to receive a tax credit. It will also encourage small producers to expand the size of their operation to meet increased demand. These changes will help us meet the demand for ethanol envisioned by the bill.

Ethanol is truly a win-win solution to our energy needs. The increased use required by this legislation represents a positive step, one for our farmers, for our environment, and for our energy independence. I support the compromise in this bill that will lead to increased uses of ethanol, and I urge my colleagues to support it as well. The renewable fuels standard included in this bill is an important part of a balanced energy policy that we need.

TRANSPORT OF SPENT NUCLEAR FUEL

Mr. President, on a separate topic, I would like to discuss an amendment I will be offering next week. Two years ago, the Department of Energy proposed to send a shipment of foreign spent nuclear fuel through Missouri. The route selected went through the heavily populated areas of St. Louis, Columbia, and Kansas City, along a major highway, Interstate 70, that was undergoing major repairs. Governor Carnahan intervened, and an alternate, more rural route was selected. The shipment was completed without incident.

Then last year, Missouri was asked to accept another shipment through the State. Governor Holden raised the same objections that had been discussed the year earlier. And after he

did, a curious thing happened: The Department of Energy held up shipments from a reactor inside Missouri. This reactor produced isotopes used in cancer treatment. If these shipments did not go forward as scheduled, the reactor would have to be closed, halting production of needed medicines for bone cancer patients.

I insisted these two matters—the shipments from the reactor in Missouri and the transport of spent nuclear fuel through the State—be delinked, and they were.

Eventually, Governor Holden worked out a safety protocol with the Department and the foreign spent fuel shipment went forward. Although the shipment was completed, we encountered some problems with the timing of its passage through Missouri.

Our experience in Missouri over the past 2 years suggests the Department of Energy's route selection process deserves careful study. How we deal with spent nuclear fuel in this country may be a matter of great controversy, but regardless of one's position on this topic, everyone ought to be able to agree that when spent fuel has to be transported we want it to be done in the safest possible way.

One of the key components in ensuring safe transport of spent fuel is the process for selecting the safest route. My amendment would commission the National Academy of Sciences study of the Department of Energy's route selection process for shipments of spent nuclear fuel. The National Academy would examine the way DOE picks potential routes, the factors it uses to evaluate the safety of these routes, including traffic and accident data, the quality of roads and the proximity to population centers and venues where people congregate, and the process it uses to compare the risks associated with each route.

There are a number of reasons why it makes sense to commission this study now. First, the responsibility for this program is divided among multiple agencies. The Department of Transportation sets the regulations for transportation of spent nuclear fuel. The Nuclear Regulatory Commission has oversight responsibility and the Department of Energy makes the final decision in consultation with these organizations.

A study will help ensure these agencies are working together and are properly performing their function.

Secondly, these agencies are using regulations drafted in the 1990s. The devastating events of September 11 have taught us we have to rethink all of our security procedures, and while I understand the Nuclear Regulatory Commission has issued some additional guidelines since that date, I believe a complete review is in order and an NSA study will help us ensure that our agencies are focused on the appropriate safety factors.

Finally, Congress will be considering a highway bill next year. If there are

safety problems on routes that are likely to be used for cross-country shipments of spent nuclear fuel, we ought to address them in the highway bill. We need to start the study now, however, if we want to have the information in time for a debate on the highway bill.

This amendment is not intended to take sides on the controversial issue that will soon be before this Senate. Its purpose is to get a neutral, nonpartisan review of an important public safety function that has received very little scrutiny.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3094, AS MODIFIED

Mr. REID. Mr. President, I ask the pending business be an amendment offered yesterday by Senator DURBIN.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I send a modification to the desk on behalf of Senator DURBIN.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be so modified.

The amendment (No. 3094), as modified, is as follows:

(Purpose: To establish a Consumer Energy Commission to assess and provide recommendations regarding energy price spikes from the perspective of consumers) At the appropriate place in title XVII, insert:

SEC. 1704. CONSUMER ENERGY COMMISSION.

(a) ESTABLISHMENT OF COMMISSION.—There is established a commission to be known as the "Consumer Energy Commission".

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commission shall be comprised of 11 members who shall be appointed within 30 days from the date of enactment of this section and who shall serve for the life of the commission.

(2) APPOINTMENTS IN THE SENATE AND THE HOUSE.—The majority leader and the minority leader of the Senate and the Speaker and minority leader of the House of Representatives shall each appoint 2 members—

(A) 1 of whom shall represent consumer groups focusing on energy issues; and

(B) 1 of whom shall represent the energy industry.

(3) APPOINTMENTS BY THE PRESIDENT.—The President shall appoint 3 members—

(A) 1 of whom shall represent consumer groups focusing on energy issues;

(B) 1 of whom shall represent the energy industry; and

(C) 1 of whom shall represent the Department of Energy.

(c) INITIAL MEETING.—Not later than 60 days after the date of enactment of the Act, the Commission shall hold the first meeting of the Commission regardless of the number of members that have been appointed and shall select a Chairperson and Vice Chairperson from among the members of the Commission.

(d) ADMINISTRATIVE EXPENSES.—Members of the Commission shall serve without compensation, except for a per diem and travel

expenses which shall be reimbursed, and the Department of Energy shall pay expenses as necessary to carry out this section, with the expenses not to exceed \$400,000.

(e) STUDY.—The Commission shall conduct a nationwide study of significant price spikes since 1990 in major United States consumer energy products, including electricity, gasoline, home heating oil, natural gas and propane with a focus on their causes including insufficient inventories, supply disruptions, refinery capacity limits, insufficient infrastructure, regulatory failures, demand growth, reliance on imported supplies, insufficient availability of alternative energy sources, abuse of market power, market concentration and any other relevant factors.

(f) REPORT.—Not later than 180 days after the date of the first meeting of the Commission, the Commission shall submit to Congress a report that contains the findings and conclusions of the Commission; and recommendations for legislation, administrative actions, and voluntary actions by industry and consumers to protect consumers and small businesses from future price spikes in consumer energy products.

(g) CONSULTATION.—The Commission shall consult with the Federal Trade Commission, the Federal Energy Regulatory Commission, the Department of Energy and other Federal and State agencies as appropriate.

(h) SUNSET.—The Commission shall terminate within 30 days after the submission of the report to Congress.

Mr. REID. I ask unanimous consent that the Senate vote on or in relation to this amendment at 3:45, with the time prior to that time equally divided, and there be no amendments in order prior to that time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. 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. BINGAMAN. Mr. President, I ask unanimous consent the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. I yield the floor to the majority leader.

UNANIMOUS CONSENT AGREEMENT—H.R. 3525 AND ANWR

Mr. DASCHLE. Mr. President, I am waiting to propound a unanimous consent request having to do with border security. I will not do that, of course, until the Republican leader returns.

My preference, as I said before on several occasions, and Senator LOTT has said, is that we take up the ANWR amendment. We have even said we are prepared to offer it ourselves in order to move this process along. I am told the sponsors of the amendment still are not prepared to offer this amendment. So I have no choice, under these circumstances, as much as I would like very much to be on it right now, but to postpone consideration of the ANWR amendment and to make the most of what time we have available to us.

I have consulted with the distinguished Republican leader. I know the administration believes, as we do, to move the border security legislation along is something in everyone's interest.

The House has passed a bill. It is my hope that we can pass the border security bill as well. The House has passed two different versions of border security, one involving the so-called 245(i) provisions, and one without those provisions included. What we are doing this afternoon would be to take up a bill that does not include 245(i), but I have indicated publicly, and indicated to Senator LOTT and to my colleagues, that it is my desire to bring up the 245(i) provisions.

I know there is opposition—I am told on both sides of the aisle. But we must address the issue. It is an important issue. It is one that should be resolved. It is one on which the Senate has acted on several other occasions. So there will come a time when we will do that.

But in order to at least pass those pieces of border security that we all agree on, I will ask unanimous consent the Judiciary Committee be discharged from further consideration of H.R. 3525, the border security bill, and that the Senate proceed to its consideration on Friday, April 12, at 11:30, and that no call for the regular order serve to replace the bill; and that, upon resumption of the energy bill, S. 557, Senator MURKOWSKI be recognized to offer his ANWR amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LOTT. Mr. President, if Senator DASCHLE will yield, I did not object because I think, all things considered, this is a good way to proceed at this time.

I, too, would prefer we go ahead and begin consideration of the ANWR amendment with regard to oil exploration in that area of Alaska. But we have other amendments that are pending. Work has continued to be done on those issues this afternoon and perhaps, I assume, some in the morning, even while a process is worked out as to exactly how to proceed with the ANWR amendment.

One of the problems I understand—it is a legitimate one—is that the amendment Senator MURKOWSKI would like to offer has some provisions that need to have some scoring done. I think that is legitimate. They want to know what it might cost. I think Members are entitled to know that. I presume he could have offered the amendment and had the scoring done over the weekend, but I think both sides were a little bit hesitant to have it offered and just have it kind of hanging out there, not knowing what the final form would be—whether, if it would be modified, we would get into a fuss over second-degree amendments. So I think this is a good way to go. Hopefully, we will be ready to go back to this on Tuesday, deal with the ANWR provisions, and finish the amendments we have remaining. I still think it is absolutely essential for our country that we get an energy bill.

I understand there is a need to complete our work next week on that issue

so we can move on to other issues. We are pressing Senator DASCHLE to take up other issues, including this border security and the 245(i) immigration issue and the trade legislation—other issues.

By doing it this way, we can dispose of a bill that is needed. Border security needs to be dealt with. It has bipartisan support. The administration supports it. We can do that by taking it up tomorrow, being on it Monday, and I hope we can be done with it sometime early on Tuesday, and then go back to ANWR.

I have checked this out with the sponsors of the border security bill and with Senator MURKOWSKI and it seems this is agreeable to all parties and this is the way we can get some work done while we work out the process on the other amendments.

I yield the floor.

Mr. DASCHLE. Mr. President, I thank my colleagues for their cooperation in the effort to move this legislation along. As I say, my choice would have been to have completed our work on ANWR already. We have now been on the bill about a month. We have been on it 20 legislative days, but over a month of calendar days.

There is no reason why we should continue to wait for an amendment that I thought might have been the first out of the box.

Having said that, I urge my colleagues to come down to the floor. We are about to have a vote on the Durbin amendment. There are other amendments pending on which we can have votes. And there are other amendments to be offered that we should have votes on as quickly as possible.

I ask my colleagues to offer amendments this afternoon. The floor is open for additional business. This does not preclude additional amendment consideration this afternoon.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, let me underscore what the majority leader has said, and also the Republican leader, and indicate that I also believe we can complete action on this energy bill fairly quickly once we come back to it and once we have the ANWR-related amendment offered by Senator MURKOWSKI and the other proponents of that amendment.

I regret that we are not able to begin dealing with that today. But we are not. Therefore, I support the majority leader's decision to move to this other legislation beginning tomorrow.

AMENDMENT NO. 3094

Let me say a few words about the Durbin amendment. The Durbin amendment was offered yesterday. It would establish the Consumer Energy Commission. It provides for an 11-member Commission which would have the job of doing a 180-day study of a variety of issues related to the generation of electricity in our country and the potential failures of the system.

I think it is a good amendment. I think it is one which has the prospect of improving our understanding of this issue.

This board is to be concluded after 180 days and report back to the Congress within 30 days. At the end of the 180 days, the group goes out of existence 30 days later.

I don't think there should be any substantial objection to this. To my mind, it is a meritorious amendment. I said yesterday that I thought it should be approved. I certainly believe that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, it is my understanding that in a moment we will vote on my amendment. I certainly thank the chairman, Senator BINGAMAN, for his kind words of support. A number of my colleagues are cosponsors of this amendment to create a Consumer Energy Commission: Senator SMITH, Senator SCHUMER, Senator JEFFORDS, and Senator STABENOW.

In this bill involving energy policy in America, there are many worthwhile issues to be considered. But I think there is one position that needs to be filled with this amendment. It is time for us to invite consumers from across America to be part of this conversation about America's energy future—the families who have to pay the heating bills, the hard-working people who have to pay for gasoline to get back and forth to work, the individuals and small businesses that may find because of price hikes they cannot keep their employees on the job, the farmers who are worried about aspects of energy price fluctuations and what that means to their lives.

This Commission is a short-term effort of limited duration and limited expense to try to invite that conversation so the consumers, small businesses, and family farmers will be part of our national strategy for energy security. We do not believe that the GAO, as good as it is, can really speak from that human and real perspective. They cannot provide the kind of study of which we are asking. The GAO and the IEA have provided plenty of studies and data on a variety of energy issues. However, they haven't brought the analysis, industry, and consumer groups together to consider particularly the problem of price spikes.

I have a chart that shows gasoline retail prices. You can see why a lot of people in the Midwest, for example, call me and call the President from time to time to ask: What is going on at the gasoline station? Today it is \$1.30 a gallon and the next day it is \$2 a gallon. Why would that happen? Has war broken out in the Middle East? No. It is just the Easter surprise that you have every year in the Midwest. Gasoline prices have gone out of control. For months at a time, families find they are spending extraordinary amounts for gasoline. Businesses cut back on their employees. Whether it is

trucking companies, delivery services, we find a lot of sacrifices are being made.

I do not know that this Commission is going to come up with the direct answer to it, but what is wrong with inviting the consumers of America into this conversation? What is wrong with asking families and small businesses to join us in this effort?

That is why I hope we can bring all the stakeholders to the table. That is why I think we need to give consumers and small business a voice. I hope my colleagues in the Senate will join me in strong support of this amendment creating a Consumer Energy Commission.

I yield the floor.

Mr. REID. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the amendment. The clerk will call the roll.

Mr. NICKLES. I announce that the Senator from Texas (Mr. GRAMM) is necessarily absent.

The PRESIDING OFFICER (Mr. JOHNSON). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 69, nays 30, as follows:

[Rollcall Vote No. 66 Leg.]

YEAS—69

Akaka	Domenici	Lincoln
Allard	Dorgan	McCain
Allen	Durbin	Mikulski
Baucus	Edwards	Miller
Bayh	Feingold	Murray
Biden	Feinstein	Nelson (FL)
Bingaman	Graham	Nelson (NE)
Boxer	Grassley	Reed
Breaux	Gregg	Reid
Byrd	Harkin	Rockefeller
Cantwell	Hatch	Sarbanes
Carnahan	Hollings	Schumer
Carper	Hutchison	Sessions
Chafee	Inouye	Smith (OR)
Cleland	Jeffords	Snowe
Clinton	Johnson	Specter
Collins	Kennedy	Stabenow
Conrad	Kerry	Thompson
Corzine	Kohl	Torricelli
Daschle	Landrieu	Voinovich
Dayton	Leahy	Warner
DeWine	Levin	Wellstone
Dodd	Lieberman	Wyden

NAYS—30

Bennett	Enzi	McConnell
Bond	Fitzgerald	Murkowski
Brownback	Frist	Nickles
Bunning	Hagel	Roberts
Burns	Helms	Santorum
Campbell	Hutchinson	Shelby
Cochran	Inhofe	Smith (NH)
Craig	Kyl	Stevens
Crapo	Lott	Thomas
Ensign	Lugar	Thurmond

NOT VOTING—1

Gramm

The amendment (No. 3094), as modified, was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3114

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to amendment No. 3114, offered

by Senator FEINSTEIN, and that the time until 4:35 p.m.—for the next 20 minutes—be equally divided in the usual form, and at 4:35 the Senate vote on or in relation to the amendment, with no second-degree amendments in order prior to the vote.

Mrs. BOXER. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, reserving the right to object, I believe there is objection on this side. I am happy to check on that and respond.

Mr. REID. Mr. President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. JOHNSON. Mr. President, I rise in opposition to the Feinstein amendment on the renewable fuels standard.

The Senate energy bill contains a landmark renewable fuels standard that is an essential part of a sound national energy policy. The bill provides for an orderly phase-down of MTBE use, removal of the oxygen content requirement for reformulated gasoline (RFG) and the establishment of a nationwide renewable fuels standard—RFS—that will be phased in over the next decade. The standard has strong bipartisan support and is the result of long and comprehensive negotiations between farm groups, the American Petroleum Institute, and coastal and Midwestern states. It is the first time that a substantive agreement has been reached on an issue that will reduce our dependency on foreign oil and greatly improve the nation's energy security. aa

Moreover, the renewable fuels standard in S. 517 provides a nationwide, cost-effective solution to address the concerns over MTBE use. Although individual states are banning or considering banning MTBE, the states are still left with meeting the federal oxygenate standard for reformulated gasoline. The provisions of S. 517 address both of these issues in a balanced manner and do so without mandating individual states to meet specific levels of renewable fuels production or use.

I have spoken in the past about the benefits of renewable fuels. These home-grown fuels will improve our energy security and provide a direct benefit for the agricultural economy of South Dakota and other rural states. The new standard is largely based on legislation that I introduced with Senator CHUCK HAGEL. The leadership of Senators DASCHLE and BINGAMAN resulted in the consensus legislation on this issue.

The consensus package would ensure future growth for ethanol and biodiesel through the creation of a new, renewable fuels content standard in all motor fuel produced and used in the U.S. Today, ethanol and biodiesel comprise less than one percent of all transportation fuel in the U.S.—1.8 billion

gallons is currently produced in the US. The consensus package would require that 5 billions gallons of transportation fuel be comprised of renewable fuel by 2012 nearly a tripling of the current ethanol production.

I do not need to convince anyone in South Dakota and other rural states of the benefits of ethanol to the environment and the economies of rural communities. We have many plants in South Dakota and more are being planned. These farmer-owned ethanol plants in South Dakota, and in neighboring states, demonstrate the hard work and commitment being expended to serve a growing market for clean domestic fuels.

Today, 3 ethanol plants—Broins in Scotland and Heartland Grain Fuels in Aberdeen and Huron—produce nearly 30 million gallons per year. With the enactment of the renewable fuels standard, the production in South Dakota and other states could grow substantially, with at least 2000 farmers owning ethanol plants and producing 200 million gallons of ethanol per year or more.

I understand the concerns raised by the senators from California and New York. This is a major a major change in the makeup of our transportation fuel. The goal of the agreement that has been reached on this title is to phase in the renewable fuels standard in a manner that is fair to every region of the country. It also bans MTBE and eliminates the oxygenate standard, two changes that Californians have sought for years. The goal of this agreement is not to raise gas prices, but to diversify our energy infrastructure and increase the number of fuel options. This helps to increase our energy security, increase competition and reduce consumer costs of gasoline.

The new standard does not require that a single gallon of renewable fuel must be used in any particular state or region. Moreover, the language includes credit trading provisions that gives refiners flexibility to meet the standard's requirements. In no way is this intended to penalize California, New York or any other region in the country.

In addition, there are allegations of huge price increases at the pump should the standard be enacted. This concern is unfounded and the analysis that the figures are based upon is flawed. Two recent reports by the Energy Information Administration—EIA—and the General Accounting Office—GAO—have raised some concerns about higher gasoline costs as well supply implications of the renewable fuels standard. These reports failed to take into account several factors, resulting in conclusions that are incomplete.

The EIA report notes that 90 percent of the costs associated with the provisions of the bill are because of the ban on MTBE, not the inclusion of the renewable fuels standard. The report also states that the RFS without the MTBE ban would raise prices up to one cent a

gallon for reformulated gasoline and up to .5 cents a gallon for all gasoline. However, the report failed to account for the provisions of the legislation that allow for credit banking and trading, which would lower any increase in prices.

The GAO report only evaluated a California ban on MTBE but assumed the continuation of the federal oxygenate standard. Because S. 517 eliminates the oxygen standard, the high costs in the GAO report are exaggerated. The American Petroleum Institute analysis of the effect of the RFS on gasoline costs, including the trading program and the elimination of the oxygenate standard, indicates that there are almost no additional costs.

The renewable fuels standard in S. 517 addresses the difficulties that states have encountered in meeting the makeup of federal gasoline standards, while promoting the use of home-grown fuels that will reduce the nation's dependency on foreign oil. Any attempts to reduce or eliminate the standard should be opposed so that we can move forward and improve the nation's energy security.

Mr. REID. 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. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the motion to table.

Mr. REID. Mr. President, I have a unanimous consent request. Well, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the motion to table amendment No. 3114. The clerk will call the roll.

The Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent that the previous order be amended to allow 15 minutes for the parties to debate and, as indicated, the vote occur at 4:35 p.m.; that the Senate resume consideration of amendment No. 3114, and the time before 4:35 p.m. be controlled equally and in the usual form; and that at 4:35 p.m. the Senate vote on or in relation to the amendment, with no second-degree amendment prior to that vote.

The PRESIDING OFFICER. Is there objection?

The Senator from New York.

Mr. SCHUMER. Mr. President, I thought we were going to be given 20 minutes, 10 on each side.

Mr. REID. That will be fine.

Mr. SCHUMER. I withdraw my objection.

The PRESIDING OFFICER. Does the Senator so modify his request?

Mr. REID. Yes.

The PRESIDING OFFICER. Is there objection?

Mr. CRAIG. I object.

AMENDMENT NO. 3114

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 3114. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Georgia (Mr. MILLER) is necessarily absent.

Mr. NICKLES. I announce that the Senator from Texas (Mr. GRAMM) and the Senator from New Hampshire (Mr. GREGG) are necessarily absent.

The PRESIDING OFFICER (Mr. DAYTON). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 61, nays 36, as follows:

[Rollcall Vote No. 67 Leg.]

YEAS—61

Akaka	Durbin	Lincoln
Baucus	Edwards	Lott
Bayh	Ensign	Lugar
Bingaman	Feingold	McConnell
Bond	Fitzgerald	Mikulski
Breaux	Frist	Murkowski
Brownback	Graham	Nelson (FL)
Bunning	Grassley	Nelson (NE)
Burns	Hagel	Reid
Byrd	Harkin	Roberts
Carnahan	Hatch	Rockefeller
Carper	Helms	Sarbanes
Chafee	Hollings	Smith (NH)
Cleland	Hutchinson	Stabenow
Cochran	Inhofe	Stevens
Conrad	Jeffords	Thomas
Craig	Johnson	Thurmond
Crapo	Kerry	Voinovich
Daschle	Landrieu	Wellstone
Dayton	Levin	
Dorgan	Lieberman	

NAYS—36

Allard	Domenici	Reed
Allen	Enzi	Santorum
Bennett	Feinstein	Schumer
Biden	Hutchison	Sessions
Boxer	Inouye	Shelby
Campbell	Kennedy	Smith (OR)
Cantwell	Kohl	Snowe
Clinton	Kyl	Specter
Collins	Leahy	Thompson
Corzine	McCain	Torricelli
DeWine	Murray	Warner
Dodd	Nickles	Wyden

NOT VOTING—3

Gramm	Gregg	Miller
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The motion was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. BINGAMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, the majority leader has authorized me to announce there will be no more rollcall votes tonight. As per the agreement we made earlier this afternoon, there will be no rollcall votes tomorrow. There will be rollcall votes on Monday, for the information of all Senators.

This has been a difficult week, but we have made significant progress. We

have completed election reform. We have gotten permission to move to the port security bill which we will start debating tomorrow. Senator BINGAMAN and Senator MURKOWSKI have slogged their way through this amendment process. I think we have made significant progress on the list of amendments we have. Although we have not gotten unanimous consent to agree to a finite list, each side has worked on amendments. We had a period when there were about 250 amendments. We are down now to probably 40 or so. Not all of those could be referred to as serious amendments. There is still a long way to go.

The amendment agreement entered into by the two leaders earlier today indicates we are going to finish the border security legislation, hopefully, by Tuesday. At that time, the Senator from Alaska will offer his amendment on ANWR. We are not going to take up the energy bill until the ANWR amendment is ready. When that is done, we will take it up.

It is my understanding in speaking with the Senator from Alaska, and several others, and also the Republican leader that they are very close to having an amendment which they feel good about and will offer. I hope that can be finalized by Tuesday.

AMENDMENTS NOS. 3119, 3120, 3121, 3122, AND 3123
EN BLOC

Mr. BINGAMAN. Mr. President, I send a series of amendments to the desk and ask for their immediate consideration en bloc.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN] proposes amendments numbered 3119, 3120, 3121, 3122, and 3123 en bloc.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 3119

(Purpose: To ensure the safety of the nation's mines and mine workers)

On page 564, after line 2, insert the following:

"SEC. 1506. FEDERAL MINE INSPECTORS.

"In light of projected retirements of Federal mine inspectors and the need for additional personnel, the Secretary of Labor shall hire, train, and deploy such additional skilled mine inspectors (particularly inspectors with practical experience as a practical mining engineer) as necessary to ensure the availability of skilled and experienced individuals and to maintain the number of Federal mine inspectors at or above the levels authorized by law or established by regulation."

AMENDMENT NO. 3120

(Purpose: To require the Secretary of Energy to conduct a study on the effect of natural gas pipelines and other energy transmission infrastructure across the Great Lakes on the Great Lakes ecosystem)

At the end of title XVII, insert the following:

SEC. 17 . STUDY OF NATURAL GAS AND OTHER ENERGY TRANSMISSION INFRASTRUCTURE ACROSS THE GREAT LAKES.

(a) DEFINITIONS.—In this section:

(1) GREAT LAKE.—The term "Great Lake" means Lake Erie, Lake Huron (including Lake Saint Clair), Lake Michigan, Lake Ontario (including the Saint Lawrence River from Lake Ontario to the 45th parallel of latitude), and Lake Superior.

(2) SECRETARY.—The term "Secretary" means the Secretary of Energy.

(b) STUDY.—

(1) IN GENERAL.—The Secretary, in consultation with representatives of appropriate Federal and State agencies, shall—

(A) conduct a study of—

(i) the location and extent of anticipated growth of natural gas and other energy transmission infrastructure proposed to be constructed across the Great Lakes; and

(ii) the environmental impacts of any natural gas or other energy transmission infrastructure proposed to be constructed across the Great Lakes; and

(B) make recommendations for minimizing the environmental impact of pipelines and other energy transmission infrastructure on the Great Lakes ecosystem.

(2) ADVISORY COMMITTEE.—Not later than 30 days after the date of enactment of this Act, the Secretary shall enter into an agreement with the National Academy of Sciences to establish an advisory committee to ensure that the study is complete, objective, and of good quality.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report that describes the findings and recommendations resulting from the study under subsection (b).

AMENDMENT NO. 3121

(Purpose: To promote the demonstration of certain high temperature superconducting technologies)

On page 408, line 8, strike "technologies." and insert "technologies; and

"(3) the use of high temperature superconducting technology in projects to demonstrate the development of superconductors that enhance the reliability, operational flexibility, or power-carrying capability of electric transmission systems or increase the electrical or operational efficiency of electric energy generation, transmission, distribution and storage systems."

AMENDMENT NO. 3122

(Purpose: To authorize a study of the way in which energy efficiency standards are determined)

On page 301, after line 22, insert the following:

"SEC. 930. STUDY OF ENERGY EFFICIENCY STANDARDS.

"The Secretary of Energy shall contract with the National Academy of Sciences for a study, to be completed within one year of enactment of this Act, to examine whether the goals of energy efficiency standards are best served by measurement of energy consumed, and efficiency improvements, at the actual site of energy consumption, or through the full fuel cycle, beginning at the source of energy production. The Secretary shall submit the report to the Congress."

AMENDMENT NO. 3123

(Purpose: To encourage energy conservation through bicycling)

On page 213, between lines 10 and 11, insert the following:

SEC. 8 . CONSERVE BY BICYCLING PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Transportation shall establish a Conserve By

Bicycling pilot program that shall provide for up to 10 geographically dispersed projects to encourage the use of bicycles in place of motor vehicles. Such projects shall use education and marketing to convert motor vehicle trips to bike trips, document project results and energy savings, and facilitate partnerships among entities in the fields of transportation, law enforcement, education, public health, environment, or energy. At least 20 percent of the cost of each project shall be provided from State or local sources. Not later than 2 years after implementation of the projects, the Secretary of Transportation shall submit a report to Congress on the results of the pilot program.

(b) NATIONAL ACADEMY STUDY.—The Secretary of Transportation shall contract with the National Academy of Sciences to conduct a study on the feasibility and benefits of converting motor vehicle trips to bicycle trips and to issue a report, not later than two years after enactment of this Act, on the findings of such study.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Transportation \$5,500,000, to remain available until expended, to carry out the pilot program and study pursuant to this section.

Mr. LEVIN. Mr. President, the recent debate shows the challenges our country faces in balancing environmental protection with our Nation's energy security. Containing nearly 95 percent of our countries surface fresh water, the Great Lakes are a natural treasure which we must work to protect. Today I offered an amendment which would request that the Secretary of Energy, in consultation with representatives of the appropriate Federal and State agencies and the National Academy of Science, conduct a study of the transmission of natural gas and electricity across the Great Lakes and report back to Congress within 365 days regarding the impacts of such lines and recommendations for minimizing their environmental impact.

As the cleanest fossil fuel, natural gas will play an increasingly important role in addressing our nations energy demands. Even today, natural gas consumption is forecasted to increase at over 2 percent per year. However, the infrastructure for transporting natural gas is already strained.

To address this problem, a number of companies have applied for permits to place pipelines and electric transmission lines across the Great Lakes. One such project is a pipeline which would transport up to 700 million cubic feet of natural gas per day to New York and the northeast. The pipeline would cross the bottom of Lake Erie for 93.8 miles, from Port Stanley, Ontario to Ripley, NY. This pipeline will be constructed using a new technique called jet trenching, which will suspend two and a half million cubic yards of sediment in Lake Erie. Much of this sediment may be contaminated and the effects of its redistribution are at best, unknown. Further, no one has analyzed the capacity of the Lakes to handle suspended sediments.

It is obvious that energy transmission infrastructure is important, but it is critical that we understand

the impacts of placing this infrastructure across the lake beds. It is also imperative that we develop a long term strategy for their placement. This amendment would require the Department of Energy to examine these questions and make recommendations on how to assure that these incredible bodies of water are protected for future generations.

This amendment is simple, but its role in addressing the challenges we now face is essential. I want to thank my colleagues in supporting this amendment.

ENERGY TRANSMISSION LINES

Mr. LEVIN. Mr. President, as the Senate considers this nation's future energy policy, we would like to discuss the intent of the amendment that the Senate will adopt regarding the planning and coordination of energy transmission lines in the Great Lakes.

Mr. DEWINE. Mr. President, I would like to thank my colleagues, Mr. BINGAMAN and Mr. MURKOWSKI, for working with us to authorize the Department of Energy, in consultation with Federal and State agencies, to study the anticipated growth of energy transmission infrastructure in the Great Lakes. The Great Lakes ecosystem is complex, so it's important to understand how to minimize the possible impacts that the various energy transmission infrastructure proposals may have on the Great Lakes ecosystem.

Mr. BINGAMAN. Mr. President, I appreciate my colleagues' concerns and agree that a comprehensive study that considers the environmental impacts of energy transmission infrastructure in the Great Lakes will be useful, as will any recommendations on ways to minimize any possible impacts.

Mr. LEVIN. Mr. President, it is our intent that this amendment require the Secretary of Energy to complete a study that will include a review of the expected energy demand—including the geographic distribution of the demand—in the Great Lakes States and northeastern States for a 10-year period; a review of the proposed locations for new natural gas-fired electric generation facilities; a review of the locations and capacity of interstate and intrastate natural gas transmission pipelines in all Great Lakes states and other energy transmission infrastructure across the Great Lakes in existence or proposed as of the date of the completion of the study; a review of the potential environmental effects that could result from the construction of pipelines and other energy transmission infrastructure across the Great Lakes.

When reviewing the potential environmental effects of construction, the Secretary should consider contaminated sediment deposits, Areas of Concern as designated by the Great Lakes Water Quality Agreement, highly sensitive fisheries, and highly sensitive nearshore and coastal habitat. The Secretary should also include an anal-

ysis of potential environmental benefits of new natural gas-fired electric generation facilities and reduced consumption measure that could be undertaken; an analysis of the capacity of the Great Lakes to handle suspended sediment; takes into consideration the impacts of accommodating the energy transmission infrastructure on land use along the coasts of the Great Lakes; and takes into consideration the emergency response time for accidents in the energy transmission infrastructure. Not later than 180 days after enactment of the underlying bill, the Secretary should report his findings and recommendations for the coordination of the development of natural gas and other energy transmission infrastructure that would minimize the aggregate negative environmental effects on the Great Lakes ecosystem.

Mr. BINGAMAN. Mr. President, I want to thank the distinguished Senators from Michigan and Ohio and our colleagues from the Great Lakes states for clarifying the intent of their amendment.

Mr. DURBIN. Mr. President, today the Senate will pass by voice vote an amendment to the energy bill that would establish a Conserve by Bike Pilot Program in the Department of Transportation, as well as fund a research initiative on the potential energy savings of replacing car trips with bike trips. This program would fund up to 10 projects throughout the country, using education and marketing to convert car trips to bike trips. The research would document the energy conservation, air quality improvement, and public health benefits caused by increased bike trips. The goal is to conserve energy resources used in the transportation sector by turning some of our gas guzzling miles into bike rides.

There is no single solution for our nation's energy challenges. Every possible approach must be considered in order to solve our energy problems.

It would be unrealistic to expect most Americans to make a substantial increase in the number of trips they make by bicycle. But even a small percentage of bike trips replacing our shorter car trips could make a significant difference in oil and gas consumption.

Right now, less than one trip in one hundred—.88 percent—is by bicycle. If we can raise our level of cycling just a tiny bit: to one and a half trips per hundred, which is less than a bike trip every two weeks for the average person, we would save over 462 million gallons of gasoline in a year, worth over \$721 million. That's one day a year we won't need to import any foreign oil.

In addition to conserving our energy, an increased number of bike trips can improve our air quality. Significant declines in vehicle emissions would follow from increased bike trips. A study in New York City showed that bicycling spares the city almost 6,000 tons of carbon monoxide each year. A re-

duced number of trips made by cars would increase this number and help to clean our nation's air.

The Federal Highway Administration estimates that 60 percent of all automobile trips are under five miles in length. And these short trips typically emit more pollutants because cars during these trips run on cold engines. Engines running cold produce five times the carbon monoxide and twice the hydrocarbon emissions per mile as engines running hot. These cold engine trips could most easily be replaced by bike rides.

Americans would experience additional advantages from increased bike usage. The decreased number of cars on our nation's highways would help reduce traffic and parking congestion. Congestion costs have reached as much as \$100 billion annually according to the Federal Highway Administration. A reduction in cars on the roads will decrease the high costs associated with congestion.

The "Conserve by Bike" amendment will also improve public health. The exercise from more frequent bike trips would help improve our physical well-being. Biking has proven to be effective in the prevention of heart disease, our nation's number one killer. And, biking also has been shown to help individuals who are trying to give up health-impairing behaviors such as smoking and alcohol abuse.

The "Conserve by Bike" amendment will help America take a simple but meaningful step in energy conservation. It will help fund up to 10 pilot projects that will use education and marketing to facilitate the conversion of car trips to bike trips, and document the energy savings from these trips. These projects will facilitate partnerships among those in the transportation, energy, environment, public health, education, and law enforcement sectors. There is a requirement for a local match in funding, so that these projects can continue after the Federal resources are exhausted. In addition, this amendment will fund a research initiative with the National Academy of Sciences to examine the feasibility and benefits of converting bike trips to car trips.

It is imperative that Americans are fully informed of the entire range of benefits from biking in terms of energy conservation, air quality, and public health. We also need to provide the best resources in bike safety and convenience.

We have been spending a modest amount of Federal, State and local funds on bicycle facilities since 1991. This amendment will leverage those investments and help people take advantage of the energy conservation choices they have in getting around their communities. I am pleased that this amendment will be accepted by the Senate as part of the energy bill that Senators DASCHLE and BINGAMAN have brought to the floor.

Ms. COLLINS. Mr. President I am proud to join my colleague from Illinois in offering an amendment to recognize and promote bicycling's important impact on energy savings and public health.

With America becoming more and more dependent on foreign oil, it is vital that we look to the contribution that bike travel can make towards solving our Nation's energy challenges. This amendment would establish a Conserve By Bike pilot program that would oversee up to 10 pilot projects throughout the country designed to conserve energy resources by providing education and marketing tools to convert car trips to bike trips. By replacing even a small percentage of short car trips with bike trips, we would save over 462 million gallons of gasoline in a year, worth over \$721 million.

While more bike trips would benefit our energy conservation efforts, they would also contribute to the public's health. According to the U.S. Surgeon General, less than one-third of Americans meet Federal recommendations to engage in at least 30 minutes of moderate physical activity at least five days a week. Even more disturbing is the fact that approximately 300,000 U.S. deaths a year currently are associated with being obese or overweight. By promoting biking, we are working to ensure that Americans will increase their physical activity.

Earlier this month, I had the opportunity to meet with a delegation representing the Bicycle Coalition of Maine. This group has done an outstanding job of advocating bicycling safety, education, and access throughout the State. As a result of the work of the Bicycle Coalition of Maine, people living in and visiting Maine will have accessible and safe conditions where they may comfortably and responsibly bicycle. The "Conserve by Bike" amendment has received support from this group and many others on the national, State, and local level, and I urge my colleagues to support this amendment.

Mr. BINGAMAN. Mr. President, these five amendments have been cleared on both sides. They include an amendment by Senator ROCKEFELLER to ensure the safety of the Nation's mines and mine workers, one by Senator LEVIN to require the Secretary of Energy to conduct a study on the effects of natural gas pipelines in the Great Lakes, one by Senator SCHUMER to promote the demonstration of certain high-temperature superconducting technologies, one by Senator SMITH of Oregon to authorize a study of energy efficiency standards, and one by Senator DURBIN to encourage energy conservation through bicycling.

I believe there is no objection to any of these amendments. I urge the Senate to adopt them at this time.

Mr. MURKOWSKI. Mr. President, speaking from the standpoint of the minority, we have worked with the majority on these amendments and find

them agreeable. They have been cleared on this side.

The PRESIDING OFFICER. Without objection, the amendments are agreed to en bloc.

The amendments (Nos. 3119, 3120, 3121, 3122, and 3123) were agreed to en bloc.

Mr. BINGAMAN. Mr. President, I move to reconsider the vote.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MURKOWSKI. Mr. President, I want the body to note that on our side there are about 10 or 14 amendments. I have no idea what the situation is on the majority side with regard to amendments.

Mr. BINGAMAN. Mr. President, I reiterate what the Senator from Nevada said earlier, which is that we have a few more than that on the Democratic side. But we have been making very good progress in reducing the number of amendments. We are optimistic that after we conclude the debate on the amendment which the Senator from Alaska is going to offer next week, we will be able to move to complete other amendments and complete action on the bill.

I yield the floor.

Mr. MURKOWSKI. Mr. President, on a note of levity and in the spirit of Senator DURBIN with the authorization of a study on the use of bicycles as a pilot program, I am going to pilot my program home tonight on my girls' bicycle which I bought for \$20. It is one which I don't have to lock up because nobody would bother to steal it. It gets me here a lot faster than driving.

I recall one day being behind an automobile of the junior Senator from New York which was stalled in the drive, and they had to push it out. I certainly recommend the amendment proposed by Senator DURBIN, which suggests obvious benefits of the bicycling. It is much easier to get through security, and when the dogs come around you only have to worry about one thing.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. NELSON of Nebraska. I thank the Chair.

(The remarks of Mr. NELSON of Nebraska are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from New York?

Mrs. CLINTON. Mr. President, I ask unanimous consent to speak for up to 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. CLINTON. Mr. President, I come to the floor today to join with my colleagues in talking about the very difficult choices that are being foisted upon some of our States and all of our consumers because of the renewable fuels provisions in the energy bill now under consideration.

Now, these renewable fuels provisions do accomplish some very important goals. First, they ban the use of MTBE, which has resulted in serious ground water pollution all over our country. They revoke the oxygenate requirements that led so many States to make such heavy use of MTBE in the first place. And they do keep in place the same stringent air pollution standards mandated by the Clean Air Act.

My State has, unfortunately, experienced firsthand the effects of MTBE contamination in our drinking water sources.

While the full health and environmental impacts of MTBE are still unknown, we do know that it smells bad, it tastes bad, and the bottom line is that people do not want to be drinking MTBE-contaminated water any more than they want to be drinking water with arsenic or some other contaminant in it.

As many of my colleagues know, because of poor air quality in certain areas of the country, we are required to meet something called an "oxygenate requirement" under the Clean Air Act.

New York City and surrounding counties constitute one of those areas. This requirement requires that consumers use gasoline additives that aid in reducing harmful air pollution. The additives available at this time are primarily MTBE and ethanol. So those of us in the Northeast, who need to meet this oxygenate requirement, have been adding MTBE to our gasoline because we have no readily accessible, affordable, available sources of ethanol in places such as New York.

The unfortunate consequence is that, as a result of leaking underground storage tanks, other leaks, and runoffs, we are now experiencing MTBE contamination in our underground water sources.

This has been a big problem in our State, particularly on Long Island, which has an aquifer that provides drinking water that runs the full length of the island. In Suffolk County alone, MTBE has been found in both private and public wells in all 10 of the towns in that county.

This is a serious problem and the costs of cleaning up this MTBE contamination are significant. While having clean air to breathe is critically important, so is having clean water to drink. We should not have to trade off air for water. We should be able to figure out how to provide both clean air and clean water.

That is why New York State took the very bold step of banning MTBE by January 1, 2004—less than 2 years from today. In fact, I believe that about 13 States—including my own—have made the decision to restrict or ban the use of MTBE in the next couple of years.

I agree that phasing out MTBE is exactly the right thing to do from a drinking water perspective and from an overall environmental perspective. That is why, in the last session, the Environment and Public Works Committee voted out S. 950 by voice vote,

the provisions of which are incorporated in the renewable fuels provisions that we are now discussing.

S. 950 includes a phaseout of MTBE and a repeal of the Federal oxygenate requirement, as recommended by the EPA's Blue Ribbon Panel on Oxygenates in Gasoline. I strongly support these provisions, and I commend the bipartisan leadership of the EPW Committee for their work on this important issue. But the committee-passed bill did not include the ethanol mandate that we are here to discuss.

Now, I am not here—I want to make this absolutely clear—to oppose ethanol. I believe in ethanol. I think it is a great step forward for renewable fuels. And I know that it is an important use of the products that are grown in many parts of our country. It is a new market. And I believe that it does take us in the right direction.

And phasing out MTBE, even with a repeal of the oxygenate requirement, will still lead to an increase in the use of ethanol in our country. That is why a Federal mandate is not needed to ensure a continuing market for ethanol. And that is why I and my senior colleague from New York, and my colleagues from California, and others, are opposing the ethanol mandate that is included in this bill.

The energy bill we are currently debating includes what I can only describe as an astonishing new anticonsumer Government mandate: that every refiner in our country use an ever increasing volume of ethanol or pay for ethanol credits.

At first when this was described to me, I thought there had to be some mistake because I, and I guess the majority of my colleagues, support ethanol. But to be told it has to be used, and the amount of it has to increase over time, struck me as exactly the opposite of what we are trying to achieve in this new energy policy. Because regardless of the market, and whatever the demand would be for ethanol, this bill requires the use of ethanol or the purchase of ethanol credits at a set amount, an amount that will eventually exceed 5 billion gallons.

Currently U.S. refiners use approximately 1.7 billion gallons of ethanol. Starting in 2004, the Nation's refiners would be required to use 2.3 billion gallons of ethanol. And that number would ratchet up to 5 billion gallons of ethanol by 2012. And the use of a constant percentage of ethanol per volume of gasoline would be required every year thereafter no matter what kind of new breakthroughs we had in making gas both more efficient and cleaner. It would not matter. We would have a big brother, big-hand Federal Government mandate: You have to use it no matter what.

This means that from 2012 on, the Nation's ethanol producers would have a Government-guaranteed annual market of at least 5 billion gallons, or perhaps even more.

Now, oil refiners could, in a competitive market, find smarter, cleaner, and

less expensive ways to reformulate gasoline, but they would be forced to keep using billions of gallons of ethanol annually nonetheless.

Refiners in States outside the Corn Belt that lack the infrastructure to transport and refine ethanol would nonetheless be forced to pay for ethanol credits. The credits would result in rising gas prices and the transfer of funds from hard-pressed consumers in one part of the country to ethanol-rich areas in the rest of the country, while doing nothing to improve air quality. In other words, consumers in every State would be forced to pay for ethanol whether they used it or not.

Make no mistake about it, this is tantamount to a new gas tax. This will cause the price of gasoline to go up anywhere from 4 cents to 10 cents a gallon. Others who spoke earlier today discussed specifically what would happen in their own States. I believe for New York this would mean more than 7 cents per gallon at the pump.

The reasons for these cost increases are manifold. There are costs of production issues. Ethanol simply costs more to produce than gasoline or MTBE. Since ethanol is primarily made from corn, if there is a bad corn crop one year, we can expect not only food prices but gas prices as well to increase under this bill.

There are also supply issues. According to a recent report by the Congressional Research Service, in the short term ethanol is unlikely to be available in sufficient quantity. If the supply is not there, the gasoline supply can't be there, and prices will inevitably rise as a result.

There are transportation distribution issues, as has been discussed earlier. The cost of using ethanol is also influenced by the fact that almost 90 percent of ethanol production occurs in just five States: Illinois, Iowa, Nebraska, Minnesota, and Indiana. The geographic concentration of ethanol production is an obstacle to its use on either the east or west coasts, particularly because ethanol-blended gasoline cannot travel through petroleum pipelines and, therefore, it must be transported by truck, rail, or barge which significantly increases its per-unit cost.

As has already been mentioned, ethanol production is also concentrated among a few large producers. The top 5 companies that produce ethanol account for approximately 60 percent of production capacity, and the top 10 companies account for approximately 75 percent of production capacity. ADM alone markets about half of the ethanol produced in the country.

All of this is going to mean higher prices for the American consumer, particularly on the east and west coasts. There will be other costs to consumers as well.

As many know, ethanol already gets a tax break in terms of the gasoline tax. Every gallon of gas with ethanol gets a 5.4-cent Federal subsidy. The

subsidy is currently costing \$600 million in Federal highway funds at today's ethanol use level. That means that with a 5-billion-plus-gallon-a-year ethanol mandate, we will have even less dollars for much needed transportation projects in all of our States, resulting in more traffic congestion, less safe roadways, and other consumer costs.

Another cost to consumers will be the potential environmental cost of an increased use of ethanol, not to mention the safe harbor from liability that is included in this bill.

I have to give it to the sponsors and authors of this provision; they have thought of everything: subsidies; put a tax on everybody else who has to use it; make it even less likely that the environmental costs are going to be in any way taken care of because the environmental and public health impacts of ethanol are still not fully understood.

Studies have indicated that while reducing carbon dioxide emissions, ethanol may increase emissions of smog-producing and other toxic compounds.

Despite the questions on its environmental and public health impacts, this bill also includes a renewable fuels safe harbor provision. What does that mean? It gives product liability protection against consumers and communities that may seek legal redress from the manufacturers and oil companies that produce or utilize defective additives in their gasoline. That is adding insult to injury. First, we are going to tax you and, second, we are going to make it impossible for you to get any kind of redress if what we are making you buy makes you sick or pollutes the environment.

This means companies have less incentive to ensure that the additives they manufacture and use are safe, eliminating an important disincentive to pollute.

What is the net result? We are providing a single industry with a guaranteed market for its products—subsidies on top of subsidies on top of subsidies and, on top of that, protection from liability. What a sweetheart deal.

If the average American consumer tunes in on this debate and realizes what is happening, there will be a revolt. I dare predict that voting for this bill, which will raise gas prices in 45 of our States, will be a political nightmare for the people who end up voting for it. Higher gas prices at the pump, reduced Federal assistance for much needed transportation projects, possible negative air quality, and public health impacts, to say nothing of raiding the Federal Treasury to give this giveaway to these large producers, makes it impossible to understand why any proconsumer, prohealth, pro-environment, antigovernment mandate Member of this body would vote for this provision.

For consumers, the ethanol mandate is a one, two, three, four punch. First, consumers will pay more at the pump

to meet arbitrary goals that boost the sale of ethanol, whether we need it or not. Second, consumers will face reduced Federal assistance for transportation projects because the money is going to be going to the ethanol producers, not to fix your roads or your bridges. Third, consumers may experience potential environmental and public health impacts. But guess what. You are barred from seeking redress. Who needs tort reform, just stick this in the energy bill and forget about ever getting any kind of liability against anybody who may be intentionally or negligently causing health or environmental harm. And fourth, you can't sue the manufacturers and the oil companies.

There are some very positive aspects of these provisions to phase out MTBE and eliminate the oxygenate requirement. We have long fought for this. There are many in this body who have been working on this a lot longer than I have. I applaud those Members for doing everything possible to ban MTBE and eliminate this oxygenate requirement. With about 13 States having already taken such action, this is an issue that needs to be addressed. But this is the wrong way to do it.

New York and California are on the front lines of this battle because California had originally banned MTBE as of January 1, 2003, although the Governor was forced to push the date back a year. Now California and New York, with millions and tens of millions of consumers, are in the same boat because New York has also banned MTBE. But Arizona has also taken final action to ban MTBE. Colorado has mandated a phaseout, Connecticut has also phased it out as of 2004, and even Illinois has banned the use, sale, distribution, blending, or manufacturing of MTBE as a fuel additive, along with Kansas and Michigan. And Minnesota has prohibited the sale of gasoline containing more than .3 percent volume by weight of MTBE and required the phaseout by July 2005.

There are many States that have taken actions. They have actually passed laws. There are numbers of others who are trying to take action to phase it out.

We do need Federal action. My colleagues from New York and California and I understand that we need to pass provisions that will work. But that does not mean we should pass a 5-billion-gallon, anticonsumer, gas-price-increasing ethanol mandate.

So, Mr. President, I hope that calmer heads will prevail in this debate, that we will understand the important role of ethanol, provide an opportunity for that market to grow, but not mandate it, not interfere with the operation of the market, not provide subsidies, not require consumers to buy it whether we need it or not, and not protect the producers from public health and environmental liability.

What is going on here? Any business or any sector of the economy would

love to have a mandated tax increase directly into their pocketbooks. That is not the purpose of having an energy bill that puts us on the path to self-sufficiency. I certainly don't think the tens of millions of consumers who may be following this debate think at the end of the day they are going to be transferring hard-earned money out of their pockets into the pockets of ethanol manufacturers, whether it helps or not.

So I really hope my colleagues will consider the impact of this policy and join with those of us who are looking at this from the longer term perspective to come up with an amendment that provides the kind of support for ethanol we all believe would be in our best interest, without the damaging mandates that this approach would require.

Again, I don't think anybody in this body came to this energy debate thinking they were voting to raise this gas tax, but indeed if we pass this as currently written, that is exactly what we are going to do. Those people who are going to pay that increased cost, starting in a few years, are going to turn around and say: Why is this happening?

It is going to be hard for us to explain. There is no reason for us to make this decision when there are alternatives and we can work together and make it possible for us to have a much better approach without the damaging impact this amendment on ethanol would cause to our entire country.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. I understand we have the regular order, and the Senator who is supposed to speak is not here.

The PRESIDING OFFICER. The Senator is correct. There is no order for speakers. The Senator may proceed.

Mr. DOMENICI. Mr. President, I ask unanimous consent to speak for 3 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I rise today to call attention to a very special anniversary that many in my home state of New Mexico will take time to remember this weekend. Saturday, April 13th will mark the sixty-year anniversary of the Bataan Death March. Some eighteen-hundred men from the 200th Coast Anti-Artillery Aircraft and the 515th Coast Anti-Artillery, Aircraft, New Mexico National Guard Units were involved in that infamous march.

I do not think words can fully describe the bravery of these veterans and the horrific conditions they endured. In all, more than seventy thousand American and Filipino prisoners of war were captured in April 1942 and force-marched to a Japanese work camp. Suffering from starvation and physical abuse, more than seven thousand died and only about fifty-six thou-

sand reached the camp. Thousands later died from malnutrition and disease. Of those eighteen-hundred from the New Mexico Brigade, fewer than nine-hundred returned.

On Saturday, in Las Cruces, New Mexico, we will dedicate the Bataan Death March Memorial in memory and in honor of these men. And because New Mexicans made up such a large proportion of those prisoners involved in the march, this anniversary and dedication ceremony have stirred many emotions throughout my state. For those survivors and their families, there is a great sense of pride. Of course, there is much lingering pain, as well. But by establishing a memorial in their honor, we build a bridge to that emotion—a bridge that will allow all generations of Americans to imagine the suffering these men endured, and to remember, forever, their true valor.

For all Americans who are unable to travel to the Southwest to see the beautiful bronze statue portraying an American soldier and a Filipino soldier comforting an injured American comrade during the midst of that seven-day march, I would encourage you to take the time to learn about the horrors these men suffered—to learn their story. It is both sobering and inspiring, and I pay tribute to their heroism today.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CLELAND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Georgia is recognized.

Mr. CLELAND. I thank the Chair.

(The remarks of Mr. CLELAND pertaining to the introduction of S. 2115 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. CLELAND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. CLINTON). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. REID. Madam President, I ask unanimous consent the Senate proceed to a period of morning business, with Senators permitted to speak for not to exceed 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENTRY INTO FORCE OF THE INTERNATIONAL CRIMINAL COURT

Mr. DODD. Madam President, today with the deposit of the 66th instruments of ratification of the Rome Statute, the International Criminal Court is on track to enter into force on July 1. I rise to acknowledge and congratulate those who have labored to reach this moment—the creation of a permanent international forum to bring to justice heinous criminals who have committed crimes against humanity, the fulfillment of the legacy of Nuremberg. The Nuremberg Trial of the leading Nazi war criminals following World War II was a landmark in the struggle to deter and punish crimes of war and genocide, setting the stage for the Geneva and Genocide Conventions. It was also largely an American initiative. Justice Robert Jackson's team drove the process of drafting the indictments, gathering the evidence and conducting this extraordinary case.

My father, Thomas J. Dodd, served as executive trial counsel at Nuremberg, it was among his proudest accomplishments. I believe that he would have been proud today to see the International Criminal Court, ICC, come into existence. He believed that America had a special role to help make the rule of law relevant in every corner of the globe. I believe that he would have endorsed President Clinton's decision to sign the Rome Statute in December of 2000 on behalf of the United States. President Clinton did so knowing full well that much work remains to be done before the United States can become a party to the U.N. convention establishing an International Criminal Court.

Now that the establishment of the ICC is inevitable, the United States must now determine what its relationship with the Court will be. Rather than adopting a course that will pit us against our best friends and allies, I call for the United States to be actively engaged with the ICC in working to ensure that it demonstrates the highest standards of jurisprudence and integrity. Although the United States is not a party to the treaty, The United States should feel free to raise its voice and give its opinion on who should be selected to be the Court's judges and prosecutors. The United States should also use its seat on the U.N.'s Security Council to refer situations to the Court, such as the current conflict in Sudan that has already claimed over 2 million lives as a result of war crimes, genocide, and crimes against humanity. And above all, the United States should be a watchdog of the Court's integrity and keep it laser focused on its primary task, bringing to justice the world's worst criminals.

There are those in Congress and the Administration who would have the United States repudiate the ICC, and work to tear it down. They would have us take the unprecedented step of "unsigning" the Rome Statute. I have just cited a number of vital American

interests that are wrapped up in the Court. Those interests are not going to be erased with the name of the United States from the Rome Statute. That is why I strenuously oppose such action: it is irresponsible, isolationist, and contrary to our vital national interests. Many of our closest allies have put their faith in the vision of this new legal instrument. We should give them the benefit of the doubt that they are committed to making the court work to strengthen international respect for the rule of law. I will include the list of the States that have signed and ratified the Rome Statute at the conclusion of my remarks.

I call on the Bush administration to recognize that there is a constructive and useful role that the United States can perform without making a decision at this juncture concerning US ratification. We should be prepared to lend our expertise in grappling with the many issues that remain to be resolved before the court becomes fully functioning. That is what a global power with the stature of the United States should do.

I ask unanimous consent to print in the RECORD the list of States to which I referred.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ROME STATUTE OF THE INTERNATIONAL CRIMINAL COURT—PARTICIPANTS

Participant	Signature	Ratification
Albania	18 Jul 1998	
Algeria	28 Dec 2000	
Andorra	18 Jul 1998	30 Apr 2001
Angola	7 Oct 1998	
Antigua and Barbuda	23 Oct 1998	18 Jun 2001
Argentina	8 Jan 1999	8 Feb 2001
Armenia	1 Oct 1999	
Australia	9 Dec 1998	
Austria	7 Oct 1998	28 Dec 2000
Bahamas	29 Dec 2000	
Bahrain	11 Dec 2000	
Bangladesh	16 Sep 1999	
Barbados	8 Sep 2000	
Belgium	10 Sep 1998	28 Jun 2000
Belize	5 Apr 2000	5 Apr 2000
Benin	24 Sep 1999	22 Jan 2002
Bolivia	17 Jul 1998	
Bosnia and Herzegovina	17 Jul 2000	11 Apr 2002
Botswana	8 Sep 2000	8 Sep 2000
Brazil	7 Feb 2000	
Bulgaria	11 Feb 1999	11 Apr 2002
Burkina Faso	30 Nov 1998	
Burundi	13 Jan 1999	
Cambodia	23 Oct 2000	11 Apr 2002
Cameroun	17 Jul 1998	
Canada	18 Dec 1998	7 Jul 2000
Cape Verde	28 Dec 2000	
Central African Republic	7 Dec 1999	3 Oct 2001
Chad	20 Oct 1999	
Chile	11 Sep 1998	
Colombia	10 Dec 1998	
Comoros	22 Sep 2000	
Congo	17 Jul 1998	
Costa Rica	7 Oct 1998	7 June 2001
Côte d'Ivoire	30 Nov 1998	
Croatia	12 Oct 1998	21 May 2001
Cyprus	15 Oct 1998	7 Mar 2002
Czech Republic	13 Apr 1999	
Democratic Republic of the Congo	8 Sep 2000	11 Apr 2002
Denmark	25 Sep 1998	21 Jun 2001
Djibouti	7 Oct 1998	
Dominica		12 Feb 2001 ²
Dominican Republic	8 Sep 2000	
Ecuador	7 Oct 1998	5 Feb 2002
Egypt	26 Dec 2000	
Eritrea	7 Oct 1998	
Estonia	27 Dec 1999	30 Jan 2002
Fiji	29 Nov 1999	29 Nov 1999
Finland	7 Oct 1998	29 Dec 2000
France	18 Jul 1998	9 June 2000
Gabon	22 Dec 1998	20 Sep 2000
Gambia	4 Dec 1998	
Georgia	18 Jul 1998	
Germany	10 Dec 1998	11 Dec 2000
Ghana	18 Jul 1998	20 Dec 1999
Greece	18 Jul 1998	
Guinea	7 Sep 2000	

ROME STATUTE OF THE INTERNATIONAL CRIMINAL COURT—PARTICIPANTS—Continued

Participant	Signature	Ratification
Guinea-Bissau	12 Sep 2000	
Guyana	28 Dec 2000	
Haiti	26 Feb 1999	
Honduras	7 Oct 1998	30 Nov 2001
Hungary	15 Jan 1999	25 May 2000
Iceland	26 Aug 1998	
Iran (Islamic Republic of)	31 Dec 2000	
Ireland	7 Oct 1998	11 Apr 2002
Israel	31 Dec 2000	
Italy	18 Jul 1998	26 Jul 1999
Jamaica	8 Sep 2000	
Jordan	7 Oct 1998	11 Apr 2002
Kenya	11 Aug 1999	
Kuwait	8 Sep 2000	
Kyrgyzstan	8 Dec 1998	
Latvia	22 Apr 1999	
Lesotho	30 Nov 1998	6 Sep 2000
Liberia	17 Jul 1998	
Liechtenstein	18 Jul 1998	2 Oct 2001
Lithuania	10 Dec 1998	
Luxembourg	13 Oct 1998	8 Sep 2000
Madagascar	18 Jul 1998	
Malawi	22 Mar 1999	
Mali	17 Jul 1998	16 Aug 2000
Malta	17 Jul 1998	
Marshall Islands	6 Sep 2000	7 Dec 2000
Mauritius	11 Nov 1998	5 Mar 2002
Mexico	7 Sep 2000	
Monaco	18 Jul 1998	
Mongolia	29 Dec 2000	11 Apr 2002
Morocco	8 Sep 2000	
Mozambique	28 Dec 2000	
Namibia	27 Oct 1998	
Nauru	13 Dec 2000	12 Nov 2001
Netherlands	18 Jul 1998	17 Jul 2001 ¹
New Zealand	7 Oct 1998	7 Sep 2000
Niger	17 Jul 1998	11 Apr 2002
Nigeria	1 Jun 2000	27 Sep 2001
Norway	28 Aug 1998	16 Feb 2000
Oman	20 Dec 2000	
Panama	18 Jul 1998	21 Mar 2002
Paraguay	7 Oct 1998	14 May 2001
Peru	7 Dec 2000	10 Nov 2001
Philippines	28 Dec 2000	
Poland	9 Apr 1999	12 Nov 2001
Portugal	7 Oct 1998	5 Feb 2002
Republic of Korea	8 Mar 2000	
Republic of Moldova	8 Sep 2000	
Romania	7 Jul 1999	11 Apr 2002
Russian Federation	13 Sep 2000	
Saint Lucia	27 Aug 1999	
Samoa	17 Jul 1998	
San Marino	18 Jul 1998	13 May 1999
Sao Tome and Principe	28 Dec 2000	
Senegal	18 Jul 1998	2 Feb 1999
Seychelles	28 Dec 2000	
Sierra Leone	17 Oct 1998	15 Sep 2000
Slovakia	23 Dec 1998	11 Apr 2002
Slovenia	7 Oct 1998	31 Dec 2001
Solomon Islands	3 Dec 1998	
South Africa	17 Jul 1998	27 Nov 2000
Spain	18 Jul 1998	24 Oct 2000
Sudan	8 Sep 2000	
Sweden	7 Oct 1998	28 Jun 2001
Switzerland	18 Jul 1998	12 Oct 2001
Syrian Arab Republic	29 Nov 2000	
Tajikistan	30 Nov 1998	5 May 2000
Thailand	2 Oct 2000	
The Former Yugoslav Republic of Macedonia	7 Oct 1998	6 Mar 2002
Trinidad and Tobago	23 Mar 1999	6 Apr 1999
Uganda	17 Mar 1999	
Ukraine	20 Jan 2000	
United Arab Emirates	27 Nov 2000	
United Kingdom of Great Britain and Northern Ireland	30 Nov 1998	4 Oct 2001
United Republic of Tanzania	29 Dec 2000	
United States of America	31 Dec 2000	
Uruguay	19 Dec 2000	
Uzbekistan	29 Dec 2000	
Venezuela	14 Oct 1998	7 Jun 2000
Yemen	28 Dec 2000	
Yugoslavia	19 Dec 2000	6 Sep 2001
Zambia	17 Jul 1998	
Zimbabwe	17 Jul 1998	

¹ Acceptance.

² Accession.

KIDS ARE GETTING KILLED

Mr. LEVIN. Mr. President, for the third time in 6 weeks, a gunman has killed a young girl in Detroit. The first time it was a 7-year-old, killed by a man who opened fire on a car full of children. The second time it was a 3-year-old, shot while she was watching television in her room. And just this past Wednesday, an 8-year-old was shot while sleeping at home. The Detroit Police Department has one man in custody, but no one has been formally

charged. These are very tragic events. In addition to prosecuting the criminals who commit these horrific crimes, we can do more to prevent them, we should close the gun show loophole so that it is more difficult for criminals to gain access to guns.

In 1994, Congress passed the Brady Law, which requires Federal Firearm Licensees to perform criminal background checks on gun buyers. However, a loophole in this law allows unlicensed private gun sellers to sell firearms at gun shows without conducting a background check.

In April of last year, Senator JACK REED introduced the Gun Show Background Check Act which would close this loophole in the law. The Reed bill, which is supported by the International Association of Chiefs of Police, extends the Brady Bill background check requirement to all sellers of firearms at gun shows. I cosponsored that bill because I believe it is critical that we do all we can to prevent guns from getting into the hands of criminals and terrorists. I urge the Senate to debate and pass this common sense gun-safety legislation.

CELEBRATING OVER A HALF CENTURY OF SERVICE TO VETERANS

Mr. ROCKEFELLER. Madam President, I am pleased today to say a few words about the Paralyzed Veterans of America, PVA to those of us who work on veterans matters, in connection with the organization's PVA Awareness Week, which takes place next week.

PVA began in February 1947, when delegates from seven groups of paralyzed veterans from around the country met at the Hines VA Hospital in Chicago, IL. Those veterans agreed to form a national organization to address the needs of spinal cord injured veterans. They believed that veterans with spinal cord injuries would have the strongest voice in speaking for veterans with such injuries and for all who were similarly disabled, a belief that has been borne out over the years. The original members of PVA also emphasized the need both to conduct research to find a cure for spinal cord injury while, at the same time, providing for the basic, immediate needs of spinal cord injured veterans.

Since its inception, PVA has dedicated itself to the well being of some of America's most catastrophically disabled veterans as it has developed a unique expertise on a wide variety of issues involving the special needs of its members, veterans of the armed forces who have experienced spinal cord injury, SCI, or dysfunction. PVA, which received a Congressional charter as a veterans service organization in 1971, is a dynamic, broad-based organization with more than 40 chapters and sub-chapters nationwide and nearly 20,000 members. In addition to its Washington, D.C. headquarters, PVA operates 58 service offices around the country to serve the needs of all veterans

seeking Department of Veterans Affairs' claims and benefits.

PVA is a leading advocate for quality health care not only for spinal cord injured veterans, but for all other veterans as well. They also continue to press for research and education addressing spinal cord injury and dysfunction.

PVA's commitment to research can be seen in its sponsorship of the Spinal Cord Research Foundation which supports research to alleviate, and ultimately end, medical and functional consequences of paralysis; its endowment in 1980 of a Professorship in SCI Medicine at Stanford University; its creation of the Spinal Cord Injury Education and Training Foundation to support innovative education and training programs; and its role in establishing the PVA-EPVA Center for Neuroscience and Regeneration Research at Yale University along with the Eastern Paralyzed Veterans Association, the Department of Veterans Affairs, and Yale University, with the goal of restoration of function in people with spinal cord dysfunction.

PVA also coordinates the activities of two coalitions of professional, payer, and consumer groups, the Consortium for Spinal Cord Medicine and the Multiple Sclerosis Council, which develop clinical practice guidelines defining standards of care for people with spinal cord injury and multiple sclerosis.

While PVA's Congressional charter requires it to devote substantial resources to representing veterans in their claims for benefits from VA, the PVA Veterans Benefits Department goes above and beyond the call of duty, providing assistance and representation, without charge, to veterans with a spinal cord dysfunction and other veterans seeking health care and other benefits for which they are eligible. This assistance is offered through a network of PVA national service officers across the nation who assist veterans in making claims for benefits and monitor medical care at local VA medical facilities. PVA's national service officers assist claimants through every stage of the VA claims process and also offer representation to veterans who have claims pending before the Social Security Administration.

PVA's advocacy does not stop at the Board of Veterans' Appeals. It has one of the most active presences at the U.S. Court of Appeals for Veterans Claims and the U.S. Court of Appeals for the Federal Circuit, arguing cases that have set precedents that have helped thousands, if not millions, of veterans and their families.

Other key PVA programs include its Architecture Program, which plays an important role in the lives of severely disabled veterans with quality design and construction of affordable and accessible housing; its Health Analysis Program, which keeps a constant eye on the performance of the VA health care system as well as other health care systems in the public and private

sector; and its Sports and Recreation Program which is dedicated to promoting a range of activities for its members and other people with disabilities, with special emphasis on activities that enhance lifetime health and fitness, including through co-sponsorship of the National Veterans Wheelchair Games with the Department of Veterans Affairs.

For 16 years, PVA has co-authored an important, highly respected policy guide for the Congress, *The Independent Budget: A Comprehensive Policy Document Created by Veterans for Veterans*, with the Disabled American Veterans, AMVETS, and the Veterans of Foreign Wars which addresses the needs of veterans on issues ranging from health care to benefits and the resources required to meet these needs in the VA budget every year.

PVA's Government Relations staff is well-known here on Capitol Hill. Its Advocacy Program is a leading voice for civil rights and opportunities that maximize independence of individuals who have experienced spinal cord injury or disease, or other severe disabilities. PVA played an important role in the passage of the Americans with Disabilities Act. It continues its advocacy as an active member of the Consortium for Citizens With Disabilities. Its Legislation Program staff is directly involved in every budget, legislative, and policy initiative affecting veterans under consideration in the Congress every year.

Over the years, I have relied heavily on PVA members in my State of West Virginia to keep me informed about the issues so critical to veterans with spinal cord injuries. I am particularly grateful for the wisdom and counsel of my friend Randy Pleva, President of WV PVA and one of PVA's National vice presidents. I do not know a more dedicated and compassionate advocate for paralyzed veterans.

Those of us who work with PVA every day recognize the dedication and expertise that this organization brings to Capitol Hill. The organization is one of the top national veterans' service organizations in terms of expertise and dedication. We must acknowledge the extreme sacrifices that the members of their organization have made in service to this country and honor the fact that PVA members continue that service on behalf of veterans and all Americans with disabilities.

At a time when this country has soldiers deployed to far-off lands in defense of freedom, it is important that we recognize these men and women who have served this country in the past and continue to serve our nations' veterans today. I look forward to a continuing partnership with PVA to provide for the needs of veterans, past, present, and future.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Madam President, I rise today to speak about hate

crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred August 18, 1994 in Indianola, OH. Four lesbians women were attacked by a female teen who, encouraged by a crowd of onlookers, yelled anti-gay epithets. The assailant, Shanika Campbell, 18, was charged with four counts of assault in connection with the incident.

I believe that 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 of 2001 is now 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.

KOREAN WAR COMMEMORATION

Mr. BUNNING. Madam President, today I rise to respectfully ask my fellow colleagues join me in honoring the men and women who so bravely and fiercely fought for freedom and democracy during the Korean War and those who fight for these same freedoms today.

This week at Camp Lejeune in North Carolina, the often "forgotten war" will take center stage as an expected crowd of more than 10,000 will gather today at the Marine Corps Base to partake in various commemorative activities. The commemoration will begin with a full honors ceremony and address by Navy Secretary Gordon R. England and will include flyovers by vintage aircraft, modern attack helicopters, F/A—18 Hornets, AV—8B Harriers and A—10 Thunderbolts as well as a parachute jump by the Army's Golden Knights. The events, set to end next year, are part of the military's three-year commemoration of the 1950–1953 War.

On June 25, 1950, eight divisions and an armored brigade of 90,000 soldiers from the North Korean People's Army attacked in three columns across the 38th parallel and invaded the Republic of Korea. The following day, President Harry S Truman sanctioned the use of American air and naval forces below the 38th parallel. 37 long months later on July 27, 1953, an Armistice was signed and the fighting ended. In all, America lost 33,686 of its best and brightest. However, these men lost their lives safeguarding something bigger than any of us in this room, democracy.

Today, many veterans of the Korean War feel as if their sacrifice is forgotten. They believe that their place in history has been nearly erased. I urge my fellow colleagues and my fellow Americans to remember and embrace what these men and women were fighting to defend fifty years ago in North

and South Korea. They were protecting the notions of freedom and democracy our forefathers so bravely brought to this great land nearly 226 years ago. In many ways, our soldiers at home and abroad are fighting to protect these same ideals today. In 1950, communists in North Korea, China, and Russia threatened to take away people's innate right to sleep under a blanket of freedom. Today, terrorists from around the globe are attempting to do the same. We must never forget those who have fought and died to ensure that our way of life continues. I applaud the efforts of the Department of Defense and the nearly 5000 partners around the world for conducting this three-year commemoration ceremony. History and the people who played such a vital part in it should never be forgotten for what they accomplished and what they sacrificed. As Winston Churchill stated, "Out of the depths of sorrow and sacrifice will be born again the glory of mankind."

Finally, I would like to pay a special tribute to the more than 57,000 Kentuckians who served in the military during the Korean War era, many who undoubtedly fought on the front lines. I am extremely proud to know that so many Kentuckians were willing to fight for all that this great country stands for. God Bless America.

RECOGNITION OF DR. KATHY HUDSON'S SERVICE TO NIH

Mr. KENNEDY. Madam President, I would like to take a moment to recognize the exemplary work of Dr. Kathy Hudson, who after 10 years is leaving government service. For the last 7 years Dr. Hudson has served with distinction as the Director of the Office of Policy, Planning and Communications and the Assistant Director of the National Human Genome Research Institute at the National Institutes of Health. While at the Institute, she has been responsible for communications, government relations, program planning, and education activities.

Dr. Hudson has provided focus and leadership in numerous areas for the Institute. She has played a particularly important leadership role in public policy and public affairs for the Human Genome Project, the international effort to decipher the human genetic code and apply the results to improving human health.

She has led efforts to identify barriers such as genetic discrimination that could impede the fair and equitable application of genetic information to public health and has led development of policies to protect privacy and prevent genetic discrimination. In his regard, she was instrumental in the development of an Executive Order signed in February 2000 that banned discrimination in Federal employment based on genetic information. She has also provided exceptional technical advice to my staff and many others in drafting legislation on genetic non-

discrimination. I look forward to seeing that important legislation enacted soon.

Dr. Hudson received her B.A. in biology at Carleton College in Minnesota; her Masters in microbiology from the University of Chicago; and the Ph.D. in molecular biology from the University of California, Berkeley. Before joining the NIH, Dr. Hudson was a senior policy analyst in the office of the Assistant Secretary for Health at the Department of Health and Human Services. She advised the assistant secretary on national health and science policy issues involving NIH. Prior to that, Dr. Hudson worked in the Congressional Office of Technology Assessment as a congressional science fellow.

Through her signal contributions to social policy and to the Nation's health, Dr. Hudson's work has exemplified the best of government service and the difference in our Nation's well being that a dedicated scientist can make. I wish Dr. Hudson all the best in her new venture as the Director of the Genetics and Public Policy Center at the Johns Hopkins University, and on behalf of the Congress and the country, thank her for her outstanding government service.

ADDITIONAL STATEMENTS

IN RECOGNITION OF FRESNO COUNTY SUPERVISOR, JUAN ARAMBULA, RECIPIENT OF THE 2002 ROSE ANN VUICH LEADERSHIP AWARD

• Mrs. BOXER. Madam President, I rise today to bring to the Senate's attention the exemplary achievements and outstanding service of Juan Arambula, Supervisor in Fresno County, CA.

Supervisor Juan Arambula, now serving his second term as supervisor, is to receive the Rose Ann Vuich Leadership Award for his outstanding leadership and service. Supervisor Arambula is most deserving of this special recognition and the outpouring of admiration from all throughout the community.

In his many years of public service as Past President of Fresno Unified School District Board of Trustees, former member of the California School Boards Association Board of Directors and now as Supervisor for Fresno County, he has maintained a sense of honor, purpose and teamwork that not only resonated on the Fresno County Board of Supervisors, but throughout surrounding communities.

Supervisor Arambula serves Fresno County and his constituents with great distinction. I am honored to congratulate and pay tribute to him and I encourage my colleagues to join me in wishing Supervisor Arambula much continued success in his public service career. •

IN RECOGNITION OF THE NATIONAL POLICE DEFENSE FOUNDATION

• Mr. TORRICELLI. Mr. President, I rise today to extend my support and thanks to the members of the National Police Defense Foundation (NPDF). The NPDF is dedicating this year's Annual Awards Dinner to the many heroes of September 11.

The events of September 11 represent one of the most tragic events in American history. However, in the horror of the moment, many of our bravest set aside all of their conflicting emotions and rose to the occasion. Many risked and sacrificed their lives to save others, and we are grateful for all they achieved.

I would like to extend my congratulations to former NYC Police Commissioner Bernard Kerik for being honored as "Man of the Year" and Dr. Deborah Mandell as "Woman of the Year." Both have given a great deal of themselves and provided invaluable leadership during this time of crisis. Commissioner Kerik is to be commended for his leadership and the support he provided to many in the aftermath of this tragedy. Dr. Mandell should also be commended for spearheading the NPDF's emergency response team that provided critical grief counseling and support services to many of the survivors, family members, and rescue workers.

I would also like to extend my congratulations to:

Chief Robert Caron for receiving the Special Achievement Award

Sgt. John McLaughlin and P.O. William Jimeno for receiving the Profile in Courage Award

P.O. Joseph Zarrelli and Stephanie Matoursek for receiving the Operation Kids Special Achievement Award

All of the men and women of the NYPD, NY/NJ Port Authority Police, U.S. Customs, U.S. Secret Service and the FBI for receiving the Special Unit Citation Award for their efforts on the Great Kills Landfill Task Force.

I am proud to join the NPDF in honoring these individuals and the tireless efforts of all of the men and women who on September 11 and its aftermath have worked to help their fellow Americans. They represent all that is truly great about our nation.●

CELEBRATING THE 125TH ANNIVERSARY OF THE FIRST BAPTIST CHURCH IN STRATFORD, CONNECTICUT

• Mr. DODD. Madam President, today I congratulate the First Baptist Church of Stratford, CT, on its 125th anniversary as a Christian congregation. Reaching this commendable benchmark is testimony to the deep level of faith and social commitment shared by this community throughout its long history.

From its humble origins in 1877 as a small Sunday School for Stratford's growing African American population,

the First Baptist Church has evolved into a vibrant spiritual congregation dedicated to Christian Fellowship and engaged in active social ministry. Since the middle of the 20th century, the congregants of First Baptist have willingly contributed to the advancement and well-being of their surrounding community by building and running a parsonage, establishing a Food Pantry ministry, and creating the First Baptist Church Federal Credit Union. First Baptist has also addressed the need of adequate and affordable housing through the First Baptist Church Development Corporation. Just recently, the Corporation completed construction and sale of its first affordable housing unit.

I am impressed by First Baptist's commitment to Christian discipleship. Under the leadership of Reverend William B. Sutton, III, and former Pastor, Doctor William O. Johnson, it has provided growth and development to both congregants and the surrounding community. In these difficult times, I believe the services rendered by First Baptist serve as a positive example to all religious congregations.

Once again, I congratulate the First Baptist Church of Stratford on its 125th anniversary. I hope that the congregation will keep up its important work and continue to make lasting contributions to the community of Stratford for many generations to come.●

IN RECOGNITION OF NANCY RICHARDSON, RECIPIENT OF THE EXCELLENCE IN PUBLIC SERVICE AWARD

• Mrs. BOXER. Madam President, I rise today to bring to the Senate's attention the exemplary achievements and outstanding service of Nancy Richardson, a resident of Fresno, CA.

Nancy Richardson has worked her whole adult life as a community activist and dedicated advocate for children. It is because of her superb work and commitment to the community that she is being honored with the Excellence in Public Service Award.

Nancy has a long list of achievements in the community. She was a member of the Fresno Unified School District Board of Trustees, served as a coordinator of the Interagency Council, served on the Fresno County Mental Health Board and was the first sworn Court Appointed Special Advocate, CASA, volunteer and now works on the Foster Care Oversight Committee. She is known for her integrity in all matters she undertakes. Her work is endless, and is devoted to helping children.

Nancy Richardson is most deserving of this award and the outpouring of admiration that greets her each day. I am honored to pay tribute to her, and I encourage my colleagues to join me in wishing Nancy Richardson much continued success as she continues her dedicated service.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 11:30 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1366. An act to designate the United States Post Office building located at 3101 West Sunflower Avenue in Santa Ana, California, as the "Hector G. Godinez Post Office Building."

H.R. 3925. An act to establish an exchange program between the Federal Government and the private sector in order to promote the development of expertise in information technology management, and for other purposes.

The message also announced that pursuant to section 703 of the Social Security Act (42 U.S.C. 903), as amended by section 103 of Public Law 103-296, the Speaker appoints the following member on the part of the House of Representatives to the Social Security Advisory Board to fill the existing vacancy thereon: Mrs. Dorcas R. Hardy of Spotsylvania, Virginia.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1366. An act to designate the United States Post Office building located at 3101 West Sunflower Avenue in Santa Ana, California, as the "Hector G. Godinez Post Office Building"; to the Committee on Governmental Affairs.

H.R. 3925. An act to establish an exchange program between the Federal Government and the private sector in order to promote the development of expertise in information technology management, and for other purposes; to the Committee on Governmental Affairs.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-6440. A communication from the Deputy Director, Congressional Budget Office, transmitting, pursuant to law, the Final Sequestration Report for Fiscal Year 2002; referred jointly, pursuant to the order of January 30, 1975 as modified by the order of April

11, 1986, to the Committees on Appropriations; the Budget; Agriculture, Nutrition, and Forestry; Armed Services; Banking, Housing, and Urban Affairs; Commerce, Science, and Transportation; Energy and Natural Resources; Environment and Public Works; Finance; Foreign Relations; Governmental Affairs; Health, Education, Labor, and Pensions; the Judiciary; Rules and Administration; Small Business and Entrepreneurship; and Veterans' Affairs.

EC-6441. A communication from the Deputy Director, Congressional Budget Office, transmitting, pursuant to law, the Sequestration Preview Report for Fiscal Year 2003; referred jointly, pursuant to the order of January 30, 1975 as modified by the order of April 11, 1986, to the Committees on the Budget; and Governmental Affairs.

EC-6442. A communication from the Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of a nomination confirmed for the position of Assistant Secretary for Veterans' Employment and Training, received on March 21, 2002; referred jointly, pursuant to the order of January 30, 1975 as modified by the order of April 11, 1986, to the Committees on Health, Education, Labor, and Pensions; and Veterans' Affairs.

EC-6443. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, a draft of proposed legislation to establish the crime of attempted international parental kidnapping, and for other purposes; to the Committee on the Judiciary.

EC-6444. A communication from Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Requiring Change of Status from B to F-1 or M-1 Nonimmigrant Prior to Pursuing a Course of Study" (RIN1115-AG60)(INS No. 2195-02)) received on April 9, 2002; to the Committee on the Judiciary.

EC-6445. A communication from Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the texts of ILO Convention No. 184 and Recommendation No. 192 concerning Safety and Health in Agriculture; to the Committee on Foreign Relations.

EC-6446. A communication from the Secretary of Veterans' Affairs, transmitting, a draft of proposed legislation to enhance a number of veterans' programs and the ability to manage them; to the Committee on Veterans' Affairs.

EC-6447. A communication from the Attorney General, Department of Justice, transmitting, a draft of proposed legislation entitled "Settlement of Litigation and Prompt Utilization of Wireless Spectrum"; to the Committee on Commerce, Science, and Transportation.

EC-6448. A communication from the Secretary of Energy, transmitting, a draft of proposed legislation to increase the borrowing authority of the Bonneville Power Administration, and to authorize Federal power marketing administrations to fund directly Army Corps of Engineers operation and maintenance activities, and for other purposes; to the Committee on Energy and Natural Resources.

EC-6449. A communication from the Secretary of Energy, transmitting, a draft of proposed legislation approving the site at Yucca Mountain, Nevada, for the development of a repository for the disposal of spent high-level radioactive waste and spent nuclear fuel, pursuant to the Nuclear Waste Policy Act of 1982; to the Committee on Energy and Natural Resources.

EC-6450. A communication from the General Counsel of the Department of Defense,

transmitting, a draft of proposed legislation entitled "Repeal of Various Reports Required of the Department of Defense"; to the Committee on Armed Services.

EC-6451. A communication from the Secretary of Defense, transmitting, the report of a retirement; to the Committee on Armed Services.

EC-6452. A communication from the Secretary of Defense, transmitting, the report of a retirement; to the Committee on Armed Services.

EC-6453. A communication from the President and Chief Executive Officer of the Overseas Private Investment Corporation, transmitting, a draft of proposed legislation entitled "Continuation of Health Benefits Coverage for Individuals Enrolled in a Plan Administered by the Overseas Private Investment Corporation"; to the Committee on Governmental Affairs.

EC-6454. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Department's Accountability Report for Fiscal Year 2001; to the Committee on Governmental Affairs.

EC-6455. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14-312, "Sidewalk and Curbing Assessment Amendment Act of 2002"; to the Committee on Governmental Affairs.

EC-6456. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14-317, "Emergency Management Assistance Compact Temporary Act of 2002"; to the Committee on Governmental Affairs.

EC-6457. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14-318, "Interim Disability Assistance Temporary Amendment Act of 2002"; to the Committee on Governmental Affairs.

EC-6458. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14-319, "Education and Examination Exemption for Respiratory Care Practitioners Temporary Amendment Act of 2002"; to the Committee on Governmental Affairs.

EC-6459. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14-316, "Tax Increment Financing Temporary Amendment Act of 2002"; to the Committee on Governmental Affairs.

EC-6460. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14-315, "Rehabilitation Services Program Establishment Temporary Act of 2002"; to the Committee on Governmental Affairs.

EC-6461. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14-311, "Misdemeanor Jury Trial Act of 2002"; to the Committee on Governmental Affairs.

EC-6462. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14-313, "Department of Transportation Establishment Act of 2002"; to the Committee on Governmental Affairs.

EC-6463. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14-321, "Tax Increment Financing Amendment Act of 2002"; to the Committee on Governmental Affairs.

EC-6464. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the Federal Managers' Financial Integrity Act Report for Fiscal Year 2001; to the Committee on Governmental Affairs.

EC-6465. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "Appropriateness of Establishing Minimum Staffing Ratios in Nursing Homes"; to the Committee on Finance.

EC-6466. A communication from the General Counsel for the Department of the Treasury, transmitting, a draft of proposed legislation entitled "Rural Electrification Act Amendments of 2001"; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6467. A communication from the Administrator of the Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Modifying Procedures and Establishing Regulations to Limit the Volume of Small Red Seedless Grapefruit" (Doc. No. FV01-905-2 IFR) received on April 8, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6468. A communication from the Administrator, Agricultural Marketing Service, Cotton Program, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Final Rule; 2001 Final Amendment to Cotton Board Rules and Regulations Adjusting Supplemental Assessment of Imports" (CN-01-001) received on April 8, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6469. A communication from the Administrator, Livestock and Seed Program, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Pork Promotion, Research, and Consumer Information Order—Increase in Importer Assessments" (Doc. No. LS-01-02) received on April 8, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6470. A communication from the Administrator, Agricultural Market Service, Poultry Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Increase in Fees and Charges for Egg, Poultry, and Rabbit Grading" (Doc. No. PY-01-005) received on April 8, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6471. A communication from the Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Nectarines and Peaches Grown in California; Revision of Handling Requirements for Fresh Nectarines and Peaches" (Doc. No. FV02-916-1 IFR) received on April 8, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6472. A communication from the Principal Deputy Associate Administrator for the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Lysophosphatidelethanolamine (LPE); Exemption from the Requirement of Tolerance" (FRL6821-4) received on April 9, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6473. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Report on the Assets for Independence Demonstration (IDA) Program for Fiscal Year 1999; to the Committee on Health, Education, Labor, and Pensions.

EC-6474. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Final Report of the White House Commission on Complementary and Alternative Medicine Policy; to the Committee on Health, Education, Labor, and Pensions.

EC-6475. A communication from the Assistant Secretary, Pension and Welfare Benefits

Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled "Final Rules Relating to Use of Electronic Communication and Record-keeping Technologies by Employee Pension and Welfare Benefit Plans" (RIN1210-AA71) received on April 9, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC-6476. A communication from the Administrator, General Service Administration, transmitting, a draft of proposed legislation to amend the Public Buildings Act of 1959, as amended, to raise certain prospectus submission thresholds, and for other purposes; to the Committee on Environment and Public Works.

EC-6477. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Illinois" (FRL7159-9) received on April 9, 2002; to the Committee on Environment and Public Works.

EC-6478. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; State of Missouri" (FRL7170-6) received on April 9, 2002; to the Committee on Environment and Public Works.

EC-6479. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Rhode Island; Negative Declarations" (FRL7170-1) received on April 9, 2002; to the Committee on Environment and Public Works.

EC-6480. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan, Lake County Air Quality Management District" (FRL7165-4) received on April 9, 2002; to the Committee on Environment and Public Works.

EC-6481. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Significant New Uses of Certain Chemical Substances" (FRL6805-1) received on April 9, 2002; to the Committee on Environment and Public Works.

EC-6482. A communication from the Executive Vice President, Communications and Government Relations, Tennessee Valley Authority, transmitting, pursuant to law, the Authority's Statistical Summary for Fiscal Year 2001; to the Committee on Environment and Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CONRAD, from the Committee on the Budget:

Report to accompany S. Con. Res. 100, An original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2003 and setting forth the appropriate budgetary levels for each of the fiscal years 2004 through 2012. (Rept. No. 107-141).

By Mr. LEAHY, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 924. A bill to provide reliable officers, technology, education, community prosecutors, and training in our neighborhoods.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LEAHY for the Committee on the Judiciary.

Terrence L. O'Brian, of Wyoming, to be United States Circuit Judge for the Tenth Circuit.

Lance M. Africk, of Louisiana, to be United States District Judge for the Eastern District of Louisiana.

Legrome D. Davis, of Pennsylvania, to be United States District Judge for the Eastern District of Pennsylvania.

Patrick E. McDonald, of Idaho, to be United States Marshal for the District of Idaho for the term of four years.

Warren Douglas Anderson, of South Dakota, to be United States Marshal for the District of South Dakota for the term of four years.

James Joseph Parmley, of New York, to be United States Marshal for the Northern District of New York for the term of four years.

J. Robert Flores, of Virginia, to be Administrator of the Office of Juvenile Justice and Delinquency Prevention.

Scott M. Burns, of Utah, to be Deputy Director for State and Local Affairs, Office of National Drug Control Policy.

John B. Brown, III, of Texas, to be Deputy Administrator of Drug Enforcement.

Michael Taylor Shelby, of Texas, to be United States Attorney for the Southern District of Texas for the term of four years.

Jane J. Boyle, of Texas, to be United States Attorney for the Northern District of Texas for the term of four years.

Matthew D. Orwig, of Texas, to be United States Attorney for the Eastern District of Texas for the term of four years.

James B. Comey, of New York, to be United States Attorney for the Southern District of New York for the term of four years.

Thomas A. Marino, of Pennsylvania, to be United States Attorney for the Middle District of Pennsylvania for the term of four years.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. TORRICELLI:

S. 2089. A bill to combat criminal misuse of explosives; to the Committee on the Judiciary.

By Mr. TORRICELLI:

S. 2090. A bill to eliminate any limitation on indictment for sexual offenses and make awards to States to reduce their DNA case-work backlogs; to the Committee on the Judiciary.

By Mr. TORRICELLI:

S. 2091. A bill to amend title 18, United States Code, to prohibit gunrunning, and provide mandatory minimum penalties for crimes related to gunrunning; to the Committee on the Judiciary.

By Mr. TORRICELLI:

S. 2092. A bill to extend temporarily suspension of duty on 4,4'-difluorobenzophenone; to the Committee on Finance.

By Mr. TORRICELLI (for himself and Mr. CORZINE):

S. 2093. A bill to suspend temporarily the duty on Ezetimibe; to the Committee on Finance.

By Mr. TORRICELLI:

S. 2094. A bill to suspend temporarily the duty on artichokes that are prepared or preserved with vinegar of acetic acid; to the Committee on Finance.

By Mr. TORRICELLI:

S. 2095. A bill to suspend temporarily the duty on benzenepropanal, 4(1,1-Dimethylethyl)-Alpha-Methyl; to the Committee on Finance.

By Mr. TORRICELLI:

S. 2096. A bill to suspend temporarily the duty on certain light absorbing photo dyes; to the Committee on Finance.

By Mr. TORRICELLI:

S. 2097. A bill to extend temporarily suspension of duty on certain imaging chemicals; to the Committee on Finance.

By Mr. TORRICELLI:

S. 2098. A bill to suspend temporarily the duty on artichokes that are prepared or preserved without vinegar or acetic acid; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 2099. A bill to suspend temporarily the duty on bags for certain toys; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 2100. A bill to suspend temporarily the duty on cases for certain toys; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 2101. A bill to suspend temporarily the duty on cases for certain children's products; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 2102. A bill to suspend temporarily the duty on certain children's products; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 2103. A bill to suspend temporarily the duty on certain children's products; to the Committee on Finance.

By Mrs. BOXER:

S. 2104. A bill to establish election day in Presidential election years as a legal public holiday; to the Committee on the Judiciary.

By Mr. INHOFE:

S. 2105. A bill to amend the Trade Act of 1974 to extend the Generalized System of Preferences; to the Committee on Finance.

By Mr. THOMAS (for himself and Mr. ENZI):

S. 2106. A bill to suspend temporarily the duty on certain acrylic fiber tow; to the Committee on Finance.

By Mr. ROBERTS:

S. 2107. A bill to require the conveyance of the Sunflower Army Ammunition Plant, Kansas; to the Committee on Armed Services.

By Ms. STABENOW (for herself, Mr. DOMENICI, and Mr. LEVIN):

S. 2108. A bill to amend the Agriculture and Consumer Protection Act of 1973 to assist the neediest of senior citizens by modifying the eligibility criteria for supplemental foods provided under the commodity supplemental food program to take into account the extraordinarily high out-of-pocket medical expenses that senior citizens pay, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BAUCUS:

S. 2109. A bill to suspend temporarily the duty on chondroitin sulfate; to the Committee on Finance.

By Ms. COLLINS (for herself and Mr. NELSON of Nebraska):

S. 2110. A bill to temporarily increase the Federal medicare assistance percentage for the medicaid program; to the Committee on Finance.

By Mr. GRASSLEY:

S. 2111. A bill to suspend temporarily the duty on saccharose used for nonfood, non-nutritional purposes, as a seed kernel and in additional layers in an industrial granulation process for biocatalyst production; to the Committee on Finance.

By Mr. GRASSLEY:

S. 2112. A bill to suspend temporarily the duty on certain filter media; to the Committee on Finance.

By Mr. ROCKEFELLER (for himself, Mr. BYRD, and Mr. SPECTER):

S. 2113. A bill to reduce temporarily the duty on N-Cyclohexylthiophthalimide; to the Committee on Finance.

By Mr. VOINOVICH (for himself and Mr. DEWINE):

S. 2114. A bill to authorize the Attorney General to carry out a racial profiling educating and awareness program within the Department of Justice and to assist state and local law enforcement agencies in implementing such programs; to the Committee on the Judiciary.

By Mr. CLELAND:

S. 2115. A bill to amend the Public Health Act to create a Center for Bioterrorism Preparedness within the Centers for Disease Control and Prevention; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KERRY:

S. 2116. A bill to reform the program of block grants to States for temporary assistance for needy families to help States address the importance of adequate, affordable housing in promoting family progress towards self-sufficiency, and for other purposes; to the Committee on Finance.

By Mr. DODD (for himself, Ms. SNOWE, Mr. JEFFORDS, Mr. DEWINE, Mr. BREAUX, Mr. REED, and Mr. ROCKEFELLER):

S. 2117. A bill to amend the Child Care and Development Block Grant Act of 1990 to reauthorize the Act, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. JEFFORDS:

S. 2118. A bill to amend the Toxic Substances Control Act and the Federal Insecticide, Fungicide, and Rodenticide Act to implement the Stockholm Convention on Persistent Organic Pollutants and the Protocol on Persistent Organic Pollutants to the Convention on Long-Range Transboundary Air Pollution; to the Committee on Environment and Public Works.

By Mr. GRASSLEY (for himself and Mr. BAUCUS):

S. 2119. A bill to amend the Internal Revenue Code of 1986 to provide for the tax treatment of inverted corporate entities and of transactions with such entities, and for other purposes; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DAYTON (for himself and Mr. WELLSTONE):

S. Res. 236. A resolution commending the University of Minnesota-Duluth Bulldogs for winning the 2002 National Collegiate Athletic Association Division I Women's Ice Hockey National Championship; considered and agreed to.

By Mr. DAYTON (for himself and Mr. WELLSTONE):

S. Res. 237. A resolution commending the University of Minnesota Golden Gophers for winning the 2002 National Collegiate Athletic Association Division I Men's Hockey National Championship; considered and agreed to.

By Mr. WELLSTONE (for himself and Mr. DAYTON):

S. Res. 238. A resolution commending the University of Minnesota Golden Gophers for

winning the 2002 NCAA Division I Wrestling National Championship; considered and agreed to.

ADDITIONAL COSPONSORS

S. 166

At the request of Mrs. FEINSTEIN, the name of the Senator from Missouri (Mrs. CARNAHAN) was added as a cosponsor of S. 166, a bill to limit access to body armor by violent felons and to facilitate the donation of Federal surplus body armor to State and local law enforcement agencies.

S. 267

At the request of Mr. AKAKA, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. 267, a bill to amend the Packers and Stockyards Act of 1921, to make it unlawful for any stockyard owner, market agency, or dealer to transfer or market nonambulatory livestock, and for other purposes.

S. 349

At the request of Mr. HUTCHINSON, the name of the Senator from Missouri (Mrs. CARNAHAN) was added as a cosponsor of S. 349, a bill to provide funds to the National Center for Rural Law Enforcement, and for other purposes.

S. 414

At the request of Mr. CLELAND, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 414, a bill to amend the National Telecommunications and Information Administration Organization Act to establish a digital network technology program, and for other purposes.

S. 627

At the request of Mr. GRASSLEY, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 627, a bill to amend the Internal Revenue Code of 1986 to allow individuals a deduction for qualified long-term care insurance premiums, use of such insurance under cafeteria plans and flexible spending arrangements, and a credit for individuals with long-term care needs.

S. 694

At the request of Mr. LEAHY, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 694, a bill to amend the Internal Revenue Code of 1986 to provide that a deduction equal to fair market value shall be allowed for charitable contributions of literary, musical, artistic, or scholarly compositions created by the donor.

S. 885

At the request of Mr. HUTCHINSON, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 885, a bill to amend title XVIII of the Social Security Act to provide for national standardized payment amounts for inpatient hospital services furnished under the medicare program.

S. 1042

At the request of Mr. INOUE, the name of the Senator from California

(Mrs. FEINSTEIN) was added as a cosponsor of S. 1042, a bill to amend title 38, United States Code, to improve benefits for Filipino veterans of World War II, and for other purposes.

S. 1310

At the request of Mr. REID, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 1310, a bill to provide for the sale of certain real property in the Newlands Project, Nevada, to the city of Fallon, Nevada.

S. 1346

At the request of Mr. SESSIONS, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 1346, a bill to amend the Federal Food, Drug, and Cosmetic Act with regard to new animal drugs, and for other purposes.

S. 1408

At the request of Mr. ROCKEFELLER, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1408, a bill to amend title 38, United States Code, to standardize the income threshold for copayment for outpatient medications with the income threshold for inability to defray necessary expense of care, and for other purposes.

S. 1662

At the request of Mr. HUTCHINSON, the name of the Senator from New Hampshire (Mr. SMITH) was added as a cosponsor of S. 1662, a bill to amend the Internal Revenue Code of 1986 to allow Coverdell educational savings accounts to be used for homeschooling expenses.

S. 1686

At the request of Mr. KENNEDY, the names of the Senator from New Jersey (Mr. TORRICELLI) and the Senator from New Jersey (Mr. CORZINE) were added as cosponsors of S. 1686, a bill to amend title XVIII of the Social Security Act to provide for patient protection by limiting the number of mandatory overtime hours a nurse may be required to work in certain providers of services to which payments are made under the medicare program.

S. 1777

At the request of Mrs. CLINTON, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 1777, a bill to authorize assistance for individuals with disabilities in foreign countries, including victims of landmines and other victims of civil strife and warfare, and for other purposes.

At the request of Mr. CHAFEE, his name was added as a cosponsor of S. 1777, supra.

S. 1967

At the request of Mr. KERRY, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 1967, a bill to amend title XVIII of the Social Security Act to improve outpatient vision services under part B of the medicare program.

S. 2009

At the request of Mr. DURBIN, the name of the Senator from Washington

(Mrs. MURRAY) was added as a cosponsor of S. 2009, a bill to amend the Public Health Service Act to provide services for the prevention of family violence.

S. 2039

At the request of Mr. DURBIN, the names of the Senator from Oklahoma (Mr. INHOFE), the Senator from Louisiana (Mr. BREAUX), the Senator from North Dakota (Mr. CONRAD), the Senator from Hawaii (Mr. AKAKA), and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 2039, a bill to expand aviation capacity in the Chicago area.

S. 2051

At the request of Mr. REID, the names of the Senator from West Virginia (Mr. ROCKEFELLER) and the Senator from Louisiana (Mr. BREAUX) were added as cosponsors of S. 2051, a bill to remove a condition preventing authority for concurrent receipt of military retired pay and veterans' disability compensation from taking affect, and for other purposes.

S. 2075

At the request of Mr. BAUCUS, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2075, a bill to facilitate the availability of electromagnetic spectrum for the deployment of wireless based services in rural areas, and for other purposes.

AMENDMENT NO. 3030

At the request of Mrs. FEINSTEIN, her name was added as a cosponsor of amendment No. 3030 proposed to S. 517, a bill to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

AMENDMENT NO. 3094

At the request of Mr. DURBIN, the names of the Senator from New York (Mr. SCHUMER), the Senator from Vermont (Mr. JEFFORDS), and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of amendment No. 3094 proposed to S. 517, a bill to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. TORRICELLI:

S. 2090. A bill to eliminate any limitation on indictment for sexual offenses and make awards to States to reduce their DNA casework backlogs; to the Committee on the Judiciary.

Mr. TORRICELLI. Madam President, I rise today to introduce the Sexual Assault Prosecution Act. This legislation will ensure that no rapist will evade prosecution when there is reliable evidence of their guilt.

As Federal law is written today, a rapist can walk away scot-free if they are not charged within five years of

committing their crime. This is true even if overwhelming evidence of the offender's guilt, such as a DNA match with evidence taken from the crime scene, is later discovered. Some States, including my home State of New Jersey, have recognized the injustice presented by this situation and have already abolished their statutes of limitations on sexual assault crimes, and many other States are considering similar measures. Given the power and precision of DNA evidence, it is now time that the Federal Government abolish the current statute of limitations on Federal sexual assault crimes.

The precision with which DNA evidence can identify a criminal assailant has increased dramatically over the past couple decades. Because of its exactness, DNA evidence is now routinely collected by law enforcement personnel in the course of investigating many crimes, including sexual assault crimes. The DNA profile of evidence collected at a sexual assault crime scene can be compared to the DNA profiles of convicted criminals, or the profile of a particular suspect, in order to determine who committed the crime. Moreover, because of the longevity of DNA evidence, it can be used to positively identify a rapist many years after the actual sexual assault.

The enormous advancements in DNA science have greatly expanded law enforcement's ability to investigate and prosecute sexual assault crimes. Unfortunately, the law has not kept pace with science. Given the precise accuracy and reliability of DNA testing, however, the legal and moral justifications for continuing to impose a statute of limitations on sexual assault crimes are extremely weak. To that end, I am introducing the "Sexual Assault Prosecution Act" which will eliminate the statute of limitations for sexual assault crimes. This legislation will not affect the burdens of proof and the government will still have to prove guilt beyond a reasonable doubt before any person could be convicted of a crime.

Currently, the statute of limitations for arson and financial institution crimes is 10 years and is 20 years for crimes involving the theft of major artwork. If it made sense to extend the traditional five-year limitations period for these offenses, surely it makes sense to do so for sexual assault crimes, particularly when DNA technology makes it possible to identify an offender many years after the commission of the crime. By eliminating this ticking clock, we can see to it that no victim of sexual assault is denied justice simply because the clock ran out. I look forward to working with each and every one of you in order to get this legislation enacted into law.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2090

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 "Sexual Assault Prosecution Act of 2002".

SEC. 2. SEXUAL OFFENSE LIMITATION.

(a) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended—

(1) in section 3283, by striking "sexual or"; and

(2) by adding at the end the following:

"§ 3296. Sexual offenses

"An indictment for any offense committed in violation of chapter 109A of this title may be found at any time without limitation."

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections for chapter 213 of title 18, United States Code, is amended by adding at the end the following:

"3296. Sexual offenses."

SEC. 3. AWARDS TO STATES TO REDUCE DNA CASEWORK BACKLOG.

(a) DEVELOPMENT OF PLAN.—

(1) IN GENERAL.—Not later than 45 days after the date of enactment of this Act, the Director of the Federal Bureau of Investigation, in coordination with the Assistant Attorney General of the Office of Justice Programs of the Department of Justice, and after consultation with representatives of States and private forensic laboratories, shall develop a plan to grant voluntary awards to States to facilitate DNA analysis of all casework evidence of unsolved crimes.

(2) OBJECTIVE.—The objective of the plan developed under paragraph (1) shall be to—

(A) effectively expedite the analysis of all casework evidence of unsolved crimes in an efficient and effective manner; and

(B) provide for the entry of DNA profiles into the combined DNA Indexing System ("CODIS").

(b) AWARD CRITERIA.—The Federal Bureau of Investigation, in coordination with the Assistant Attorney General of the Office of Justice Programs of the Department of Justice, shall develop criteria for the granting of awards under this section including—

(1) the number of unsolved crimes awaiting DNA analysis in the State that is applying for an award under this section; and

(2) the development of a comprehensive plan to collect and analyze DNA evidence by the State that is applying for an award under this section.

(c) GRANTING OF AWARDS.—The Federal Bureau of Investigation, in coordination with the Assistant Attorney General of the Office of Justice Programs of the Department of Justice, shall—

(1) develop applications for awards to be granted to States under this section;

(2) consider all applications submitted by States; and

(3) disburse all awards under this section.

(d) AWARD CONDITIONS.—States receiving awards under this section shall—

(1) require that each laboratory performing DNA analysis satisfies quality assurance standards and utilizes state-of-the-art DNA testing methods, as set forth by the Federal Bureau of Investigation in coordination with the Assistant Attorney General of the Office of Justice Programs of the Department of Justice;

(2) ensure that each DNA sample collected and analyzed be made available only—

(A) to criminal justice agencies for law enforcement purposes;

(B) in judicial proceedings if otherwise admissible;

(C) for criminal defense purposes, to a criminal defendant who shall have access to samples and analyses performed in connection with any case in which such defendant is charged; or

(D) if personally identifiable information is removed, for—

- (i) a population statistics database;
 - (ii) identification research and protocol development purposes; or
 - (iii) quality control purposes; and
- (3) match the award by spending 15 percent of the amount of the award in State funds to facilitate DNA analysis of all casework evidence of unsolved crimes.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Department of Justice \$15,000,000 for each of fiscal years 2003 through 2006, for awards to be granted under this section.

By Mr. TORRICELLI:

S. 2091. A bill to amend title 18, United States Code to prohibit gunrunning, and provide mandatory minimum penalties for crimes related to gunrunning; to the Committee on the Judiciary.

Mr. TORRICELLI. Madam President, I rise today to introduce the Gun Kingpin Penalty Act. In introducing this bill, I hope that my colleagues will soon join me in sending a clear and strong signal to gunrunners, your actions will no longer be tolerated.

Data gathered by the Bureau of Alcohol, Tobacco and Firearms clearly demonstrates what many of us already know all too well, several of our Nation's highways have become pipelines for merchants of death who deal in illegal firearms.

My own State of New Jersey is proud to have some of the toughest gun control laws in the Nation. But for far too long, the courageous efforts of New Jersey citizens in enacting these tough laws have been weakened by out of State gunrunners who treat our State like their own personal retail outlet.

ATF data shows that in 1996 New Jersey exported fewer guns used in crimes, per capita, than any other State, less than one gun per 100,000 residents, or 75 total guns. Meanwhile, an incredible number of guns used to commit crimes in New Jersey came from out of State, 944 guns were imported, a net import of 869 illegal guns used to commit crimes against the people of New Jersey.

This represents a one way street, guns come from, States with lax gun laws straight to States, like New Jersey, with strong laws. It is clear that New Jersey's strong gun control laws offer criminals little choice but to import their guns from States with weak laws. We must act on a Federal level to send a clear message that this cannot continue and will not be tolerated.

The Gun Kingpin Penalty Act would create a new Federal gunrunning offense for any person who, within a twelve-month period, transports more than 5 guns to another State with the intent of transferring all of the weapons to another person. The Act would establish mandatory minimum penalties for gunrunning as follows: a mandatory 3 year minimum sentence for a first offense involving 5–50 guns; a mandatory 5 year minimum sentence for second offense involving 5–50 guns; and a mandatory 15 year minimum sentence for any offense involving more than 50 guns.

We can never rest when it comes to gun violence. This problem will not just go away, and we cannot standby and watch as innocent men, women and children die at the hands of criminals armed with these guns. I urge my colleagues to support this bill, and I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2091

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 “Gun Kingpin Penalty Act”.

SEC. 2. GUN KINGPIN PENALTIES.

(a) **PROHIBITION AGAINST GUNRUNNING.**—Section 922 of title 18, United States Code, is amended by adding at the end the following:

“(z) It shall be unlawful for a person not licensed under section 923 to ship or transport, or conspire to ship or transport, 5 or more firearms from a State into another State during any period of 12 consecutive months, with the intent to transfer all of such firearms to another person who is not so licensed.”.

(b) **MANDATORY MINIMUM PENALTIES FOR CRIMES RELATED TO GUNRUNNING.**—Section 924 of title 18, United States Code, is amended by adding at the end the following:

“(p)(1)(A)(i) Except as otherwise provided in this subsection, whoever violates section 922(z) shall be imprisoned not less than 3 years, and may be fined under this title.

“(ii) Except as otherwise provided in this subsection, in the case of a person's second or subsequent violation of section 922(a), the term of imprisonment shall be not less than 5 years.

“(B) If a firearm which is shipped or transported in violation of section 922(z) is used subsequently by the person to whom the firearm was shipped or transported, or by any person within 3 years after the shipment or transportation, in an offense in which a person is killed or suffers serious bodily injury, the term of imprisonment for the violation shall be not less than 10 years.

“(C) If more than 50 firearms are the subject of a violation of section 922(z), the term of imprisonment for the violation shall be not less than 15 years.

“(D) If more than 50 firearms are the subject of a violation of section 922(z) and 1 of the firearms is used subsequently by the person to whom the firearm was shipped or transported, or by any person within 3 years after the shipment or transportation, in an offense in which a person is killed or suffers serious bodily injury, the term of imprisonment for the violation shall be not less than 25 years.

“(2) Notwithstanding any other provision of law, the court shall not impose a probationary sentence or suspend the sentence of a person convicted of a violation of section 922(z), nor shall any term of imprisonment imposed on a person under this subsection run concurrently with any other term of imprisonment imposed on the person by a court of the United States.”.

(c) **CRIMES RELATED TO GUNRUNNING MADE PREDICATE OFFENSES UNDER RICO.**—Section 1961(1)(B) of title 18, United States Code, is amended by inserting before “section 1028” the following: “section 922(a)(1)(A) (relating to unlicensed importation, manufacture, or dealing in firearms), section 922(a)(3) (relating to interstate transportation or receipt of firearm), section 922(a)(5) (relating to trans-

fer of firearm to person from another State), section 922(a)(6) (relating to false statements made in acquisition of firearm or ammunition from licensee), section 922(d) (relating to disposition of firearm or ammunition to a prohibited person), section 922(g) (relating to receipt of firearm or ammunition by a prohibited person), section 922(h) (relating to possession of firearm or ammunition on behalf of a prohibited person), section 922(i) (relating to transportation of stolen firearm or ammunition), section 922(j) (relating to receipt of stolen firearm or ammunition), section 922(k) (relating to transportation or receipt of firearm with altered serial number), section 922(z) (relating to gunrunning), section 924(b) (relating to shipment or receipt of firearm for use in a crime).”.

(d) **ENFORCEMENT.**—Notwithstanding any limitations imposed by or under the Federal Workforce Restructuring Act (108 Stat. 111), the Secretary of the Treasury may hire and employ 200 personnel, in addition to any personnel hired and employed by the Department of the Treasury under other law, to enforce the amendments made by this section.

By Ms. STABENOW (for herself, Mr. DOMENICI, and Mr. LEVIN):

S. 2108. A bill to amend the Agriculture and Consumer Protection Act of 1973 to assist the neediest of senior citizens by modifying the eligibility criteria for supplemental foods provided under the commodity supplemental food program to take into account the extraordinarily high out-of-pocket medical expenses that senior citizens pay, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Ms. STABENOW. Madam President, I rise today to introduce the Senior Nutrition Act that will help prevent our seniors from having to make the choice between food and medicine as they try to balance their budgets.

That, is the most horrible of choices.

The problem, is this:

The average senior citizen pays over \$1,000 per year on prescription drugs. Many of these seniors, the majority of whom are widows, depend entirely on Social Security for their income and cannot afford to buy their prescription drugs without cutting back on their food.

At the same time, many food banks and other nutrition programs are reporting an increase in participation by seniors.

These same food banks also say they are frustrated that many seniors they would like to help are not eligible because under the United States Department of Agriculture's, USDA, important nutrition program, the Commodity Supplemental Food Program, CSFP, seniors are not able to deduct the cost of their medications when seeking eligibility for food assistance.

While clearly in need of help, and clearly deserving of help, these seniors have to be turned away.

Michigan has the greatest number of CSFP participants in the country, last year over 80,000 people benefited from this important program in my State and 66,123 were seniors. I have a letter from the Director of the largest program in our State asking for help. I

would like to insert his letter for the record because he raises some very important points. Most importantly, he points out that if something is not done to fix this program, many seniors will be turned away. These are seniors just barely getting along, who rely on the modest food package provided by the CSFP.

The Senior Nutrition Act helps resolve this problem and helps the neediest seniors by amending the eligibility criteria for nutrition assistance provided through the CSFP. Most importantly, the bill acknowledges the extraordinarily high out-of-pocket medical expenses that senior citizens have and helps these seniors by making many of them eligible for the food available through the CSFP. The Senior Nutrition Act means the fewer seniors will be forced to make the tough choice between medication or food.

Nationally, 28 States and the District of Columbia participate in the CSFP, which works to improve the health of both women with children and seniors by supplementing their diets with nutritious USDA commodity foods. An average of more than 388,000 people each month participated in the CSFP during fiscal year 2000. Of those, 293,000 were elderly and that number is on the rise. This program is important for anyone who cares about making sure seniors have enough to eat.

The bill I am introducing today, the Senior Nutrition Act, makes the following important changes: one: In those areas where CSFP operates, categorical eligibility is granted for seniors for the CSFP if the individual participates or is eligible to participate in the Food Stamp Program. No further verification of income would be necessary in such cases. The Food Stamp Program provides a medical expense deduction, which seniors may use to account for their high prescription drug costs.

Two: This bill says that the same income standard that is currently used to determine eligibility for women, infants and children in the CSFP, 185 percent of the Poverty Income Guidelines, would be applied to seniors as well. The current income eligibility standard for seniors has been capped by regulation at just 130 percent. Under the current standards a single senior must earn no more than \$11,518 per year to qualify. By raising the standard to 185 percent of poverty, the same senior can earn as much as \$16,391 to qualify for food. This will make a major difference in the lives of so many seniors who are struggling with the high cost of prescription drugs.

Finally, this bill establishes an authorization for the CSFP that will double the current appropriation levels to \$200 million over five years to accommodate any expansion that may occur in the program due to the changes in eligibility standards.

This bill has been endorsed by the National CSFP Association. I would like to submit a copy of their letter for the RECORD.

The golden years should be bright and active years for our seniors. They should not be lived in a grey dusk of indifference as we sit by and watch them make literal life and death decisions between food and medicine.

I would like to thank my colleagues who have joined me as original cosponsors of this bill, Senators LEVIN and DOMENICI. Together, I know we can make a difference for seniors.

I ask unanimous consent that the text of this bill and that the letters from Mr. Frank Kubik and Ms. Barb Packett be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2108

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 "Senior Nutrition Act of 2002".

SEC. 2. FINDINGS.

Congress finds that—

(1) senior citizens in the United States have significant out-of-pocket costs for medical expenses, especially for prescription drugs;

(2) 3 in 5 Medicare beneficiaries do not have dependable, affordable, prescription drug coverage;

(3) as medical costs continue to rise, many senior citizens are forced to make the difficult choice between purchasing prescription drugs and purchasing food;

(4) the commodity supplemental food program provides supplemental nutritious foods to senior citizens in a number of States and localities;

(5) under the commodity supplemental food program—

(A) women, infants, and children with household incomes up to 185 percent of the Federal Poverty Income Guidelines published annually by the Department of Health and Human Services may be eligible for supplemental foods; but

(B) senior citizens are ineligible for supplemental foods if their household incomes are greater than 130 percent of the Federal Poverty Income Guidelines;

(6) during fiscal year 2000—

(A) an average of more than 388,000 people each month participated in the commodity supplemental food program; and

(B) the majority of those participants, 293,000, were senior citizens; and

(7) in order to serve the neediest senior citizens, taking into account their high out-of-pocket medical (including prescription drug) expenses, the eligibility requirements for the commodity supplemental food program should be modified to make more senior citizens eligible for the supplemental foods provided under the program.

SEC. 3. ELIGIBILITY OF ELDERLY PERSONS UNDER THE COMMODITY SUPPLEMENTAL FOOD PROGRAM.

(a) IN GENERAL.—Section 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note; Public Law 93-86) is amended—

(1) in the first sentence of subsection (d)(2)—

(A) by striking "provide not less" and inserting "provide, to the Secretary of Agriculture, not less";

(B) by inserting "or such greater quantities of cheese and nonfat dry milk as the Secretary determines are necessary," after "nonfat dry milk"; and

(C) by striking "in each of the fiscal years 1991 through 2002 to the Secretary of Agriculture" and inserting "in each fiscal year";

(2) in subsection (i)—

(A) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively, and indenting appropriately; and

(B) by striking "(i) Each" and inserting the following:

"(i) PROGRAMS SERVING ELDERLY PERSONS.—

"(1) ELIGIBILITY.—An elderly person shall be eligible to participate in a commodity supplemental food program serving elderly persons if the elderly person is at least 60 years of age and—

"(A) is eligible for food stamp benefits under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.); or

"(B) has a household income that is less than or equal to 185 percent of the most recent Federal Poverty Income Guidelines published by the Department of Health and Human Services.

"(2) PROVISION OF INFORMATION.—Each"; and

(3) by adding at the end the following:

"(m) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out the commodity supplemental food program—

"(A) \$120,000,000 for fiscal year 2003;

"(B) \$140,000,000 for fiscal year 2004;

"(C) \$160,000,000 for fiscal year 2005;

"(D) \$180,000,000 for fiscal year 2006;

"(E) \$200,000,000 for fiscal year 2007; and

"(F) such sums as are necessary for fiscal year 2008 and each fiscal year thereafter.

"(2) LIMITATION ON USE OF FUNDS.—None of the funds made available under paragraph (1) shall be available to reimburse the Commodity Credit Corporation for commodities donated to the commodity supplemental food program."

(b) CONFORMING AMENDMENTS.—

(1) Section 5(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note; Public Law 93-86) is amended by striking "Secretary (1) may" and all that follows through "(2) shall" and inserting "Secretary shall".

(2) Section 5(g) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note; Public Law 93-86) is amended by striking "(as defined by the Secretary)" and inserting "described in subsection (i)(1)".

February 21, 2002.

Hon. DEBBIE STABENOW,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR STABENOW: I am writing this letter to ask for your continued support for the Commodity Supplemental Food Program. We are facing some potential problems in the upcoming months that I would like to bring to your attention.

For FY02 we may be seeing program participation threaten to exceed our assigned caseload of 42,700 here at Focus: HOPE as well as other programs nationally that are at or above their assigned caseloads due to the downturn in the economy. November saw us serve 43,553 and 42,902 participated in January. These are traditionally slow months for us and my concern is that if we continue to serve over one hundred per cent of our caseload and additional resources are not found, we may be faced with the prospect of removing senior citizens from our program. The Department of Agriculture has done an outstanding job in assigning caseload nationally to maximize its usage but if this participation trend continues they may not have the ability to meet the demand. Seniors depend heavily on the nutritious commodities provided by CSFP. In many cases this is a lifeline for them by not only giving them access to the food but also the additional services many CSFP's are able to bring to the

seniors by the strong use of volunteers and other community programs.

My hope is that we will not get to the point of removing seniors from the program and that additional caseload, if needed, can be found.

Another point I would like to bring up is the plight of senior citizens who are over the income guideline limits of one hundred and thirty per cent of the poverty level and are ineligible for CSFP. We routinely have to turn away seniors whose income is over the guidelines yet have major expenses in the way of prescriptions and other medical care that leaves very little to live on for the rest of the month. The average income of a senior on our program is around \$520 a month. Even though the maximum amount for participation is \$931 a month we find many who don't qualify due to the reasons I've mentioned. A possible solution is to increase the senior income guidelines to the same amount as mothers and children who are participating in CSFP of one hundred and eighty five per cent of the poverty level. Originally when the senior program was piloted in 1983, the income guidelines were the same. They were reduced after the seniors were permanently added to the program. Increasing the income guidelines would address the needs of a growing senior population while still maintaining priority to mothers and children in the program as required by regulations.

I know that this is a time of tightening budgets but I am hopeful that a way will be found to continue to support this much needed program that has made a difference in so many of our most vulnerable citizens.

I am most appreciative of all of your support for Focus: HOPE and the Commodity Supplemental Food Program.

Sincerely,

FRANK KUBIK,
CSFP Manager.

NATIONAL CSFP ASSOCIATION,
March 18, 2002.

Hon. DEBBIE STABENOW,
U.S. Senate, Hart Senate Bldg., Washington,
DC.

DEAR SENATOR STABENOW: The National Commodity Supplemental Food Program (CSFP) Association strongly supports your efforts to introduce and pass The Stabenow/Domenici Senior Nutrition Act in the upcoming weeks.

CSFP enables us to reach the most vulnerable seniors along with mothers and children every month with a food package designed to supplement protein, calcium, iron and vitamin A & C. The Hunger in America 2001 study done by America's Second Harvest reports that of the people seeking emergency food assistance, 30 percent had to choose between paying for food and paying for medicine or medical care. By amending the eligibility criteria for the seniors served by CSFP, this Act will assist the neediest of seniors in receiving nutrition assistance they so desperately need to remain in better health.

On behalf of the Association, let me thank you again for all your efforts on behalf of the CSFP and the participants we serve. We are committed to supporting The Stabenow/Domenici Senior Nutrition Action.

Sincerely,

BARB PACKETT,
Legislative Affairs Chair.

Mr. LEVIN. Madam President, today I am proud to be an original cosponsor of the Senior Nutrition Act. This legislation which is cosponsored by my friend and colleague from my home state of Michigan, Senator STABENOW as well as my good friend Senator DOMENICI seeks to address in inequity

in the Commodity Supplemental Food Program, CSFP, that I have long sought to address.

CSFP is an important U.S. Department of Agriculture commodity food program that serves nearly four hundred thousand individuals every month, many of whom live in my home state of Michigan. The vast majority of these individuals are senior citizens. In fact, CSFP is the primary senior commodity program of the USDA. The average senior citizen pays \$1000 dollars per year to purchase prescription drugs, and many senior citizens living on fixed incomes, are forced to choose between prescription drugs and food.

Given the dire choices facing many seniors, reforming the Commodity Supplemental Food Program so that it can serve more seniors is a matter of great importance. This legislation seeks to increase the ability of seniors to get the food that they need by granting categorical eligibility for seniors if they can participate in the Food Stamp Program. Additional verification is not needed in this case. The Food Stamp Program provides a medical expense deduction which seniors may use to account for their high prescription drug costs. This legislation will also raise the CSFP eligibility level for seniors to 185 percent of the poverty level. Raising the eligibility level to 185 percent of the poverty level, from the current level of 130 percent, would make eligibility levels consistent for women with children and senior citizens. In addition this bill will raise the authorized level for CSFP to \$200 million of funding over 5 years. This will ensure that all eligible to receive food under CSFP will do so while allowing for the expansion of the program beyond the 28 States and the District of Columbia which currently participate in the program.

I am proud to be an original cosponsor of this legislation, and would like to thank Senators STABENOW and DOMENICI for their hard work in crafting this legislation. I hope that my Senate colleagues will join us in supporting and assign this legislation.

By Ms. COLLINS (for herself and
Mr. NELSON of Nebraska):

S. 2110. A bill to temporarily increase the Federal Medicare assistance percentage for the Medicaid Program; to the Committee on Finance.

Ms. COLLINS. Madam President, I am pleased today to rise, with my good friend Senator BEN NELSON, to introduce a bill that would assist States through a period when many are experiencing a fiscal crisis. Stated simply, for the remainder of this year and next, the bill would increase the Federal Government's share of each State's Medicaid costs by 1.5 percent and hold the Federal matching rate for each State harmless in order to provide approximately \$7 billion in fiscal relief to States and allow them to expand, not contract, their Medicaid programs.

Last month, I was pleased to join with an overwhelming number of our

colleagues in passing an economic recovery bill that extended benefits for unemployed workers and provide depreciation incentives for businesses to invest in new facilities and equipment. In short, the bill provided welcome relief to our unemployed workers and to our economy. But it also posed a difficult choice to State governments.

In all but a handful of States, corporate and individual income taxes are calculated based on the Federal tax code's definition of income. Thus, when we change how taxable income is calculated under the Federal code, the changes automatically affect the amount of tax collected by States. It has been estimated, for example, that the tax changes made by the economic recovery package will reduce State revenues by \$14 billion. States can avoid the revenue loss by "decoupling" their tax policies from Federal law, but they do so at a price. Decoupling increases the complexity of paying taxes and forces businesses to devote more resources to compliance. At the most basic level, they would have to calculate taxes two different ways and would have to factor the dueling tax consequences into their business decisions.

States that automatically or affirmatively decide to conform to the tax law changes in the economic recovery package are faced with finding ways to cover the loss in expected revenue. This could mean making painful cuts in important areas such as health care, transportation, and education. My home State of Maine was faced with a \$27 million revenue loss over the next two years if it chose to conform to the Federal tax law changes, and this on top of a much larger structural budget shortfall. The resulting bleak picture forced the State legislature to contemplate some extremely problematic alternatives, including cuts in the State Medicaid program.

Today, Medicaid is the fastest growing component of State budgets. While State revenues were stagnant or declined in many States last year, Medicaid costs increased 11 percent. Maine is only one of a number of States that has been forced to consider cuts in their Medicaid programs to make up for their budget shortfalls.

Earlier this year, Maine was facing a \$248 million revenue shortfall. Faced with nothing but tough choices, our Governor proposed \$58 million in Medicaid cuts, including reductions in payments to hospitals, nursing homes, group homes, and physicians. He was also forced to propose a delay in the enactment of legislation passed by the State Legislature last year to expand Medicaid to provide health coverage to an estimated 16,000 low-income uninsured Mainers.

While subsequent revisions in the State's revenue forecasts enabled the Governor to restore most of these Medicaid cuts, the loss of revenue due to the tax law changes in the economic recovery package could very well put

them back on the table, particularly because the Maine legislature has decided to defer a decision on whether to fully conform in 2002 to the bonus depreciation provisions of the economic recovery package until its next legislative session.

The legislation I am introducing today will help to bridge Maine's funding gap by bringing an additional \$40 million to my State's Medicaid program over the next two years. This should not only forestall the need for any further cuts, but will also provide additional funds to Maine to proceed with its plans to expand its Medicaid program to provide health care coverage for more of our low-income uninsured.

I do not want Maine or other States to have to choose between helping our economy recover from recession and helping people in need. Our States need more Federal assistance in providing health care services through Medicaid, not less, which is why I am introducing this bill today. By increasing the Federal medical assistance percentage for all States this year and next, we can relieve the pressure put on States to cut spending on important programs while increasing their capacity to provide services through Medicaid. I urge our colleagues to join Senator NELSON and me in this effort.

Mr. NELSON of Nebraska. Madam President, I come to the floor to talk about a bill I plan on introducing later on today with my good friend Senator SUSAN COLLINS. I am pleased to say that our legislation could be considered the next step in economic stimulus. A little more than a month ago, this body passed and the President signed a bill to stimulate the economy and help workers. It was not a perfect bill, but few are. But the economy was hurting and it was time to act.

One of the unintended consequences of the stimulus bill was a revenue loss for many states. The final package included a provision that will stimulate business development through tax incentives. Unfortunately, because the majority of states "couple" their tax rates to the federal tax rates, this benefit for businesses will mean an estimated \$14 billion loss in state revenues. States can avoid the revenue loss by decoupling from the federal law, but this approach is not without its own traps and pitfalls. Decoupling makes the tax codes of states just that much more confusing.

Many states have explored ways to decouple, or in simpler terms, they have searched for ways to hold their state harmless from the experienced revenue loss. In fact, the state Legislature in Nebraska is considering such a measure today, as it attempts to find a way out of its expected \$119 million budget shortfall.

We must now take steps to alleviate the unintended impact of the tax reductions on state budgets. In previously debated stimulus packages, a provision was included that would have

helped state governments by increasing the federal contribution of the Federal Medicaid Assistance Percentage, FMAP, by 1.5 percent. This provision enjoyed wide support. Unfortunately, and over the objections of the crafters of the Centrist stimulus plan, it was not included in the final package signed by President Bush.

Even before the passage of the stimulus bill, Medicaid costs were rising at the same time state tax revenues were decreasing. States are now faced with the choice of either cutting Medicaid services or diverting funding from other essential programs to fund Medicaid. This "choice" is no choice at all either cut health care service to Medicaid recipients or cut funding for schools, roads, police and firefighters. In a time of economic turmoil this "choice" can stall the economic recovery the stimulus bill was meant to jump-start.

Our bill would revive the FMAP provision this body earlier considered. It would provide a direct response to the false "choice" faced by states. This bill will alleviate state's Medicaid liabilities by increasing the federal government's contribution to the Medicaid program by 1.5 percent for this year and next. This would mean an additional \$7 billion for states. In Nebraska, the savings would amount to an estimated \$42.7 million. This more than offsets the \$34 million that Nebraska is expected to lose if they comply with the business tax incentives in the stimulus bill and would in fact provide \$8.7 million on top of what was lost.

A month ago, we took steps to help the economy recover and to help workers. Today, we need to take an additional step to help states struggling with fiscal calamity. With this increase in federal Medicaid assistance throughout this year and next, states will be given some breathing room to deal with the difficult choices they face in balancing their budgets. I urge my colleagues to join Senator COLLINS and I in this effort and show the states that Congress is not indifferent to their budget problems and that we will step in and provide meaningful assistance at a time when governors need it most.

Mrs. CLINTON. Madam President, I commend my colleague from Nebraska for recognizing the extraordinary burdens that are being placed on our States both because of the economic slowdown and the increase in health costs, as well as the effects of the 9-11 attacks in our State particularly, but also because of the unintended consequences of some of the efforts that were undertaken in the stimulus bill to stimulate investment which have the direct effect of further cutting State revenues.

As a former Governor, I know our colleague from Nebraska understands this intimately. I very much appreciate his leadership on this issue and look forward to working with him.

Mr. NELSON of Nebraska. I thank the Senator.

By Mr. ROCKEFELLER (for himself, Mr. BYRD, and Mr. SPECTER):

S. 2113. A bill to reduce temporarily the duty on N-Cyclohexylthiophthalimide; to the Committee on Finance.

Mr. ROCKEFELLER. Madam President, I am pleased to introduce this bill today with Senators SPECTER and BYRD to temporarily suspend a portion of the tariff applicable to a specific chemical product, N-(Cyclohexylthio)-phthalimide, which is usually referred to as "PVI," and thereby provide for greater economic growth.

Import duties are intimately related to the tax and trade policies of the United States. Just as Congress expressly imposes duties on imported goods to protect specific domestic industries and at the same time raise revenue, Congress abolishes, reduces, or suspends duties to encourage domestic business enterprise and export activity, particularly if a specific domestic industry will not be harmed. This is the situation applicable to PVI.

PVI stands for "Pre-Vulcanization Inhibitor," which means that PVI retards the onset of the vulcanization when rubber is being processed. In other words, PVI functions as a safeguard when rubber articles are being manufactured. There is no direct substitute product for PVI.

As you might expect, there is a reasonable demand for this product in the U.S. rubber industry, particularly in the tire industry. To meet this demand, various companies around the world now manufacture PVI and export it to the United States; however, PVI is not manufactured in the United States.

Therefore, the U.S. economy is paying a duty for the use of PVI, but no domestic industry is being protected. Therefore, this tariff should be suspended to the maximum extent possible. This legislation would suspend the tariff above the 2 percent level, which will provide for greater economic growth for the United States.

I encourage my colleagues to support this initiative. 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. 2113

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

SECTION 1. N-CYCLOHEXYLTHIOPHTHALIMIDE.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

9902.29.82	N-Cyclohexylthiophthalimide (CAS No. 17796-82-6) (provided for in subheading 2930.90.24)	3%	No change	No change	On or before 12/31/2005	”.
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(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) applies to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of enactment of this Act.

By Mr. VOINOVICH (for himself and Mr. DEWINE):

S. 2114. A bill to authorize the Attorney General to carry out a racial profiling educating and awareness program within the Department of Justice and to assist state and local law enforcement agencies in implementing such programs; to the Committee on the Judiciary.

Mr. VOINOVICH. Madam President, we've heard all too often of situations in cities and towns across the country in which concerns over racial profiling are creating serious divisions between communities and law enforcement agencies. Despite the shared interest each have in fighting crime and making neighborhoods safer, mistrust and wariness stands in the way of cooperation.

Today I introduced a bill entitled the “Racial Profiling Education and Awareness Act of 2002” that I believe will put us on the road to preventing problems caused by racial profiling and help begin reconciliation in communities torn apart by racial unrest connected to police-community relations.

Rooted in the belief that education and dialogue are the most effective tools for bridging racial divides, my bill establishes a program within the Department of Justice to educate city leaders, police chiefs, and law enforcement personnel on the problems of racial profiling and the value of community outreach, as well as to recognize and disseminate information on “best practice” procedures for addressing police-community racial issues.

My experience as mayor of Cleveland and governor of Ohio has taught me that reaching the hearts and minds of people is the most effective means of dealing with intolerance and the problems that result.

As mayor of Cleveland I established the city's first urban coalition, the Cleveland Roundtable, to bring together representatives of the city's various racial, religious and economic groups to create a common agenda. I also established a one-week sensitivity training course for all Cleveland police officers and created six police district community relations committees to open lines of communication between police officers and community members.

As governor, I launched efforts to increase community outreach by law enforcement in order to foster a cooperative, rather than adversarial, relationship between citizens and law enforcement. Through my “Governor's Challenge,” I worked to bring members of local communities together with law

enforcement officials and members of the business community in order to educate and break down barriers that lead to intolerance. Outstanding communities were recognized for their efforts.

On Friday, April 12, 2002, Attorney General Ashcroft is scheduled to travel to Cincinnati, Ohio to endorse a settlement agreement between the Cincinnati Police Department and the Department of Justice. The settlement is in reference to a Federal lawsuit, filed last March that alleges a 30-year pattern of racial profiling by the department. Just one month after the suit was filed, riots broke out in the city of Cincinnati after a white officer shot and killed an unarmed black teenager in a foot chase. The riots prompted Mayor Luken of Cincinnati to invite the Justice Department to review the practices and procedures of the Cincinnati Police Department and make recommendations for improvement.

What results is a settlement, endorsed by all parties, including the local Fraternal Order of Police chapter and the local ACLU chapter, which sets forth several recommendations for the department, including revising procedures governing the use of deadly force, choke holds and irritant spray; increasing training requirements; and keeping a database of all citizen-reported positive interactions with police. Most importantly in my eyes, however, is the requirement that the department works to improve relations between communities and the police.

I firmly believe that Cincinnati can become a model for turning around a difficult situation and building good community-police relations. And I believe that if other cities and towns throughout the country can open the lines of communication between their communities and law enforcement as Cincinnati is doing, they can prevent problems from ever happening.

The overwhelming majority of State and local law enforcement agents throughout the Nation discharge their duties professionally and justly. I salute them for their committed efforts in what is one of America's toughest jobs. It is unfortunate that the misdeeds of a minute few have such a corrosive effect on the police-community relationship. Through education and dialogue we can help turn situations around so that groups who once thought they had little in common can realize how much they actually have to gain by working together to make our communities safer places to live.

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. 2114

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 “Racial Profiling Education and Awareness Act of 2002.”

SEC. 2. FINDINGS.

Whereas, the overwhelming majority of state and local law enforcement agents throughout the nation discharge their duties professionally and without bias.

Whereas, a large majority of individuals subjected to stops and other enforcement activities based on race, ethnicity, or national origin are found to be law-abiding and therefore racial profiling is not an effective means to uncover criminal activity.

Whereas, racial profiling should not be confused with criminal profiling, which is a legitimate tool in fighting crime.

Whereas, racial profiling violates the Equal Protection Clause of the Constitution. Using race, ethnicity, or national origin as a proxy for criminal suspicion violates the constitutional requirement that police and other government officials accord to all citizens the equal protection of the law. *Arlington Heights v. Metropolitan Housing Development Corporation*, 429 U.S. 252 (1977).

SEC. 3. AUTHORIZATION OF PROGRAM.

(a) **IN GENERAL.**—The Attorney General, in consultation with law enforcement agencies and civil rights organizations, shall establish an education and awareness program on racial profiling and the negative effects of racial profiling on individuals and law enforcement.

(b) **PURPOSES OF PROGRAM.**—The purposes of this new educational program are to (1) encourage state and local law enforcement agencies to cease existing practices that may promote racial profiling, (2) encourage involvement with the community to address the problem of racial profiling, (3) assist state and local law enforcement agencies in developing and maintaining adequate policies and procedures to prevent racial profiling, and (4) assist state and local law enforcement agencies in developing and implementing internal training programs to combat racial profiling and to foster enhanced community relations.

(c) **PROGRAM FOR LOCAL LAW ENFORCEMENT AGENCIES.**—The education and awareness program and materials developed pursuant to subsections (a) and (b) shall be offered to state and local law enforcement agencies.

(d) **REGIONAL PROGRAMS.**—The education and awareness program developed pursuant to subsections (a) and (b) shall be offered at various regional centers across the country to ensure that all law enforcement agencies have reasonable access to the program.

SEC. 4. EVALUATION OF BEST PRACTICES.

(a) **PERFORMANCE MEASURES.**—The Department of Justice shall develop measures to evaluate the performance of programs implemented under Section 3(b)(4).

(b) **EVALUATION ACCORDING TO PERFORMANCE MEASURES.**—Applying the performance measures developed under subsection (a), the Department of Justice shall evaluate programs implemented under section 3(b)(4)—

(1) to judge their performance and effectiveness;

(2) to identify which of the programs represents the best practices to combat racial profiling; and

(3) to identify which of the programs may be replicated and used to provide assistance to other law enforcement agencies.

(c) Applying the performance measures developed under subsection (a), the Department of Justice shall work with those state and local law enforcement agencies that would most benefit from the education program and materials developed under section three in order to assist them in implementing a plan for the prevention of racial profiling within their agency.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

By Mr. CLELAND:

S. 2115. A bill to amend the Public Health Act to create a Center for Bioterrorism Preparedness within the Centers for Disease Control and Prevention; to the Committee on Health, Education, Labor, and Pensions.

Mr. CLELAND. Madam President, I rise today to introduce legislation to create a National Center for Bioterrorism Preparedness and Response within the Centers for Disease Control and Prevention. This center will be the first in the Federal Government to be dedicated solely to protecting the Nation against the public health threats posed by biological, chemical, and radiological weapons attacks.

The monumental importance of this task, compounded by the potentially devastating consequences of a failure to give it the national commitment it deserves, makes the creation of a single center that will focus all its energies and resources on encountering the public health threat of bioterrorism imperative and of the greatest urgency.

The events of last fall made it painfully clear that we as a nation are not as prepared as we need to be to deal with a bioterrorist attack.

The Federal response to the anthrax crisis has been variously characterized as fragmented, slow, confused, ineffectual—in a word, inadequate. This is in no way a reflection on the dedication or abilities of the men and women who performed so exceptionally well in their roles at the Federal, State, and local level in response to a threat none of us had encountered before. They did not let us down. If anything, we, the Congress of the United States, let them down through years of neglect of the public health sector and by failing to give adequate recognition sooner to the threat posed to us by bioterrorism.

It was not until 1999 that the Department of Health and Human Services launched its bioterrorism initiative. The military had understood and taken steps to counter the threat of biological warfare against our troops decades earlier. But it took the civilian sector until 3 years ago even to begin to take seriously the threat of domestic terrorism.

Today not one of us could possibly fail to understand how serious the threat posed by bioterrorism truly is. Some among us were the intended targets of last fall's bioterrorist attack. All of us keenly felt the threat.

Between 1999 and 2001, we spent in this Nation a total of \$730 million on

HHS's bioterrorism initiative, the lion's share of which was used by the CDC to bolster bioterrorism preparedness and response capacity of State and local health departments.

This initiative was a good start, but it is now clear that between 1999 and September 11, 2001, we continued to grossly underestimate the national commitment that would be required to counter the threat of bioterrorism.

Finally, late last year, as we finished allocating funds for fiscal year 2002 in the wake of September 11 and the anthrax attacks, we boosted HHS bioterrorism spending to \$3 billion, roughly a tenfold increase.

Congress is often accused of being reactive instead of proactive, and I think that criticism is, I am sad to say, valid in this case. Certainly a dramatic ratcheting up to our commitment to bioterrorism defense was the right reaction to the events of last fall. But now we are presented with the opportunity, and I think the obligation, to take proactive steps to anticipate future threats and needs based on our recent experiences.

My proposal today is just such a step, and I exhort my colleagues in this body and in the House to support the immediate authorization of a National Center for Bioterrorism Preparedness and Response.

The CDC is on the public health front in the war against domestic terrorism, the tip of the spear. It is not the only weapon in our arsenal. The CDC joins the National Institutes of Health, the Food and Drug Administration, and Health Resources and Services Administration, the many State and local health departments, and many others on the front line. But the CDC is the one with the greatest responsibility in the event of a bioterrorist attack.

Despite the critical nature of these responsibilities, we must remember how new they are to the CDC, especially relative to the CDC's 56 years of experience addressing public health threats of a fundamentally different nature.

The threat posed by bioterrorism bears a surface resemblance to that posed by more conventional disease outputs. But closer inspection reveals real substantive differences, and a recognition of these differences can make the difference between an effective and ineffective emergency response.

The scientists and other experts at the National Center for Infectious Diseases and the National Center for Environmental Health are highly skilled in controlling and preventing disease outbreaks of a natural origin, but when it comes to bioterrorism, they are treading new ground without a compass.

CDC's rapid response personnel, in the absence of the specialized and focused bioterrorism training that a national center could provide, will inevitably bring to bear epidemiological models and methods that, while exceptionally effective in approaching naturally occurring disease outbreaks, are poorly suited to manmade outbreaks.

As my friend and former Senator Sam Nunn so wonderfully noted in testimony to Congress just months before September 11 of last year:

A biological weapons attack cuts across categories and mocks old strategies.

We need a new approach. Under the present structure, CDC's bioterrorism preparedness and response efforts exist alongside and are dispersed among its more traditional programs. This is the prevailing state of affairs because HHS's bioterrorism initiative is still relatively new, not because it is the ideal method of organizing CDC's response to bioterrorism, but the time has come to give the CDC's bioterrorism defense efforts the focus they deserve.

Counterbioterrorism activities at the CDC jumped from zero percent of the CDC's overall budget in 1998 to 4 percent in 2001 and 34 percent in 2002.

Each of the CDC's other major programs, none of which now even approaches the bioterrorism program in terms of size, has been given a national center with its own director, its own budget authority, and own accountability to Congress.

The CDC's Bioterrorism Preparedness and Emergency Response Program, by contrast, is not even funded through the CDC. Its resources come from the external public health and social service emergency fund.

In the Children's Health Act of 2000, we authorized a National Center on Birth Defects and Developmental Disabilities, not because the CDC had no prior programs relating to birth defects and developmental disabilities, but rather because only in their own dedicated center could these programs receive the focus and priority they deserve.

There is a National Center for Health Statistics, but there is right now no National Center for Bioterrorism Preparedness and Response. It seems to me that if a dedicated center is called for by the need for accurate health statistics, the urgent need for a comprehensive, effective, and focused defense against bioterrorism certainly demands one as well.

Under my legislation, the National Center for Bioterrorism Preparedness and Response would be charged with the following responsibilities: training, preparing, and equipping bioterrorism emergency response teams, who will become the special forces of the Public Health Service, for the unique purpose of immediate emergency response to a man-made assault on the public health; overseeing, expanding, and improving the laboratory response network; and that is a mission; developing response plans for all conceivable contingencies involving terrorist attacks with weapons of mass destruction, that is much needed and developing protocols of coordination and communication between Federal, State, and local actors, as well as between different Federal actors, in collaboration with these entities, for each of those contingencies,

which is highly needed; maintaining, managing, and deploying the National Pharmaceutical Stockpile, what an important challenge that is; regulating and tracking the possession, use, and transfer of dangerous biological, chemical, and radiological agents that the Secretary of HHS determines pose a threat to the public health; developing and implementing disease surveillance systems, including a nationwide secure electronic network linking doctors, hospitals, public health departments, and the CDC, for the early detection, identification, collection, and monitoring of terrorist attacks involving weapons of mass destruction; administering grants to state and local public health departments for building core capacities, such as the Health Alert Network; and organizing and carrying out simulation exercises with respect to terrorist attacks involving biological, chemical, or radiological weapons in close coordination with other relevant federal, state, and local actors.

This Center is designed specifically to complement HHS's existing structure for the coordination of its multi-agency counter-bioterrorism initiative. At present, the Director of the Office of Public Health Preparedness is responsible for coordinating the bioterrorism functions of the CDC with those of the NIH, with those of the FDA and so forth. The housing of all the CDC's bioterrorism functions in one dedicated center will facilitate the Director's coordination task by providing a single point of contact within the CDC for its bioterrorism defense efforts. When the National Center for Bioterrorism Preparedness and Response goes online, the CDC will benefit from a much more focused and prioritized bioterrorism mandate; the Office of Public Health Preparedness will benefit from a streamlining of its coordination duties; and the American people will benefit from a firmer, sounder, stronger defense against bioterrorism.

Let me be clear that what I am proposing is not an added layer of bureaucracy. Most of the responsibilities that would be assigned to the National Center for Bioterrorism Preparedness and Response already accrue to the CDC in Atlanta. My legislation would gather these existing bioterrorism functions from their various locations throughout the CDC, which has 21 different buildings, I might add, and bring them all under one roof, one center—an elimination of bureaucratic layers, not an addition of a new one. There are a few new responsibilities that my legislation would charge to the Center that do not currently reside with the CDC, but I challenge anyone to claim that they constitute merely an added layer of bureaucracy. Where there are new responsibilities—for instance, the tracking and regulation not merely of the transfer but of the possession and use of deadly biological toxins—it is only in instances of national security imperatives of the highest order.

In 1947, President Truman advocated and presided over the creation of the National Military Establishment, a new department bringing the Departments of War and Navy under one aegis. In 1949, the National Military Establishment was renamed the Department of Defense. President Truman recognized in the waning days of World War II that the Nation's military as it was then structured would be incapable of meeting future threats. That is important. The Department of Defense, with its unified command structure and cohesive focus on national defense, was his solution to the problem. Today, we all know how well the Department of Defense has served us. In the 1980s, President Reagan appointed the first drug czar to lend focus to what had previously been a loosely dispersed and consequently ineffectual war on drugs. More recently, President Bush created the Office of Homeland Security because he recognized that we need one office and one director whose sole responsibility is to ensure the security of our homeland. In this same tradition, I propose a National Center for Bioterrorism Preparedness and Response. When a threat—be it our inability to win future wars, rampant drug use, or terrorist designs on our homeland—reaches critical proportions, our Nation has historically responded by creating a focal point whose sole mandate is addressing that threat. Today, I can say without fear of contradiction that the threat of bioterrorism has surpassed the critical threshold. In my view, we are therefore called upon by history and by our obligation to future generations to create a dedicated National Center for Bioterrorism Preparedness and Response.

I ask unanimous consent that the text of my legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2115

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

SECTION 1. NATIONAL CENTER FOR BIOTERRORISM PREPAREDNESS AND RESPONSE.

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by adding at the end the following:

“PART R—NATIONAL CENTER FOR BIOTERRORISM PREPAREDNESS AND RESPONSE

“SEC. 399Z-1. NATIONAL CENTER FOR BIOTERRORISM PREPAREDNESS AND RESPONSE.

“(a) IN GENERAL.—There is established within the Centers for Disease Control and Prevention a center to be known as the National Center for Bioterrorism Preparedness and Response (referred to in this section as the ‘Center’) that shall be headed by a director appointed by the Director of the Centers for Disease Control and Prevention.

“(b) DUTIES.—The Director of the Center shall—

“(1) administer grants to State and local public health entities, such as health departments, academic institutions, and other pub-

lic health partners to upgrade public health core capacities, including—

“(A) improving surveillance and epidemiology;

“(B) increasing the speed of laboratory diagnosis;

“(C) ensuring a well-trained public health workforce; and

“(D) providing timely, secure communications and information systems (such as the Health Alert Network);

“(2) maintain, manage, and in a public health emergency deploy, the National Pharmaceutical Stockpile administered by the Centers for Disease Control;

“(3) ensure that all States have functional plans in place for effective management and use of the National Pharmaceutical Stockpile should it be deployed;

“(4) establish, in consultation with the Department of Justice, the Department of Energy, and the Department of Defense, a list of biological, chemical, and radiological agents and toxins that could pose a severe threat to public health and safety;

“(5) at least every 6 months review, and if necessary revise, in consultation with the Department of Justice, the Department of Energy, and the Department of Defense, the list established in paragraph (4);

“(6) regulate and track the agents and toxins listed pursuant to paragraph (4) by—

“(A) in consultation and coordination with the Department of Justice, the Department of Energy, and the Department of Defense—

“(i) establishing procedures for access to listed agents and toxins, including a screening protocol to ensure that individual access to listed agents and toxins is limited; and

“(ii) establishing safety standards and procedures for the possession, use, and transfer of listed agents and toxins, including reasonable security requirements for persons possessing, using, or transferring listed agents, so as to protect public health and safety; and

“(B) requiring registration for the possession, use, and transfer of listed agents and toxins and maintaining a national database of the location of such agents and toxins; and

“(7) train, prepare, and equip bioterrorism emergency response teams, composed of members of the Epidemic Intelligence Service, who will be dispatched immediately in the event of a suspected terrorist attack involving biological, chemical, or radiological weapons;

“(8) expand and improve the Laboratory Response Network;

“(9) organize and carry out simulation exercises with respect to terrorist attacks involving biological, chemical, or radiological weapons, in coordination with State and local governments for the purpose of assessing preparedness;

“(10) develop and implement disease surveillance measures, including a nationwide electronic network linking doctors, hospitals, public health departments, and the Centers for Disease Control and Prevention, for the early detection, identification, collection, and monitoring of terrorist attacks involving biological, chemical, or radiological weapons;

“(11) develop response plans for all conceivable contingencies involving terrorist attacks with biological, chemical, or radiological weapons, that specify protocols of communication and coordination between Federal, State, and local actors, as well as between different Federal actors, and ensure that resources required to carry out the plans are obtained and put into place; and

“(12) perform any other relevant responsibilities the Secretary deems appropriate.

“(c) TRANSFERS.—

“(1) IN GENERAL.—Notwithstanding any other provision of law, on the date described

in paragraph (4), each program and function described in paragraph (3) shall be transferred to, and administered by the Center.

“(2) RELATED TRANSFERS.—Personnel employed in connection with the programs and functions described in paragraph (3), and amounts available for carrying out such programs and functions shall be transferred to the Center. Such transfer of amounts does not affect the availability of the amounts with respect to the purposes for which the amounts may be expended.

“(3) PROGRAMS AND FUNCTIONS DESCRIBED.—The programs and functions described in this paragraph are all programs and functions that—

“(A) relate to bioterrorism preparedness and response; and

“(B) were previously dispersed among the various centers that comprise the Centers for Disease Control and Prevention.

“(4) DATE DESCRIBED.—The date described in this paragraph is the date that is 180 days after the date of enactment of this section.”.

By Mr. KERRY:

S. 2116. A bill to reform the program of block grants to States for temporary assistance for needy families to help States address the importance of adequate, affordable housing in promoting family progress towards self-sufficiency, and for other purposes; to the Committee on Finance.

Mr. KERRY. Madam President, I am pleased today to introduce the Welfare Reform and Housing Act. This bill contains measures to improve access to adequate and affordable housing for families eligible for Temporary Assistance for Needy Families, TANF, benefits.

It is essential that low-income families struggling to make the transition from welfare to work have access to affordable, quality housing options. Families with housing affordability problems are often forced to move frequently, which disrupts work schedules and jeopardizes employment. Many of the affordable housing options are located in areas that have limited employment opportunities and are located a long distance from centers of job growth. Furthermore, high housing costs can rob low-wage workers of a majority of their income, leaving insufficient funds for child care, food, transportation, and other basic necessities.

Maintaining stable and affordable housing is critically important to holding down a job, yet an alarming number of low-income families do not have access to affordable housing. The data from Massachusetts is shocking: in order to afford a two-bedroom unit at the fair market rent established by the Department of Housing and Urban Development, HUD, a minimum-wage worker would have to work 105 hours per week; in 1995, 2,900 poor families used private homeless shelters, while in 2000 the number grew to 4,300, with a majority of these families being low-wage workers who had once been on welfare. Lack of affordable housing is not a problem exclusive to Massachusetts. The Brookings Institution found that nearly three-fifths of poor renting families nationwide pay more than half

of their income for rent or live in seriously substandard housing. Nationwide there are only 39 affordable housing units available for rent for every 100 low-income families needing housing. And for the fourth year in a row, rents have increased faster than inflation. We must address the issue of affordable housing during reauthorization of the welfare law because many low-income families hit this formidable roadblock on their path to employment.

Though access to affordable housing is often left out of the discussion of welfare reform, it is crucial that we address this issue during our reauthorization of the welfare reform law this year. The welfare reform legislation will not allocate considerable new funds to increase affordable housing opportunities, however, modifications to the TANF statute can be made to address the problem by other means. That is why today I am introducing the Welfare Reform and Housing Act. This legislation will address the housing issue in the context of welfare reform in six major ways:

First, the measure will make it simpler for states to use TANF funds to provide ongoing housing assistance. TANF-funded housing subsidies provided for more than four months would be considered “non-assistance” instead of “assistance”. By considering these subsidies as “non-assistance,” states that want to implement housing assistance programs using TANF funds will not have to work within the constraints of current Health and Human Services rules surrounding “assistance” subsidies.

Second, the bill would encourage states to consider housing needs as a factor in TANF planning and implementation. My legislation would direct the Department of Health and Human Services to work with the Department of Housing and Urban Development to gather increased and improved data on the housing status of families receiving TANF and the location of places of employment in relation to families’ housing. States will be required to consider the housing status of TANF recipients and former recipients in TANF planning.

Third, the legislation would allow states to determine what constitutes “minor rehabilitation costs” payable with TANF funds. It is now permissible to use TANF funds for “minor rehabilitation” but there is no guidance from HHS on what types or cost of repairs are allowable, making it difficult for states to determine the extent to which using TANF funds in this area is permissible. By allowing states to define what constitutes “minor rehabilitation,” more states with similar needs will follow suit. A recent study of the health of current and former welfare recipients found that non-working TANF recipients were nearly 50 percent more likely than working former recipients to have two or more problems with their housing conditions. Research has shown that poor housing

conditions often can cause or exacerbate health problems.

Fourth, my bill would encourage cooperation among welfare agencies and agencies that administer federal housing subsidies. By improving the dialogue between public housing agencies and state welfare agencies, the two groups will be able to enter into agreements on how to promote the economic stability of public housing residents who are receiving or have received TANF benefits.

Fifth, the legislation would authorize HHS and HUD to conduct a joint demonstration to explore the effectiveness of a variety of service-enriched and supportive housing models for TANF families with multiple barriers to work, including homeless families.

Finally, my bill would clarify that legal immigrant victims of domestic violence eligible for TANF and other welfare-related benefits are also eligible for housing benefits. The proposal would ensure that abused immigrant women seeking protection under the 1994 Violence Against Women Act that are also eligible for other federal benefit programs have access to federal housing programs under section 214 of the Housing and Community Development Act.

Recent proposals made by the Administration and some members of Congress aim to increase work requirements for families receiving TANF funds. Therefore it is important that we are committed to ensuring that low-income families have a fair chance at employment. We have made progress addressing many barriers to work for low-income families such as child care, job training, and transportation. But in order to fully support families make the transition to work we must address the shortage of adequate and affordable housing. The Welfare Reform and Housing Act brings housing into the welfare reform dialogue and aims to help ameliorate the housing problem so that low-income families leaving welfare have a chance to succeed in the work force.

By Mr. DODD (for himself, Ms. SNOWE, Mr. JEFFORDS, Mr. DEWINE, Mr. BREAUX, Mr. REED, and Mr. ROCKEFELLER):

S. 2117. A bill to amend the Child Care and Development Block Grant Act of 1990 to reauthorize the Act, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Madam President, I am pleased to join with my colleagues Senators SNOWE, JEFFORDS, DEWINE, BREAUX, REED, ROCKEFELLER, and COLLINS. By joining together on this legislation, we are indicating a strong bipartisan consensus to invest in both improving the quality of child care and expanding assistance to low income working families.

It is significant that we are joining together today not only in a bipartisan manner, but also as members of the

HELP and Finance Committees in recognition of the support and necessity of child care assistance.

Today we are introducing legislation to reauthorize the Child Care and Development Block Grant. We are calling this legislation the "Access to High Quality Child Care Act", because it's about time that we put the focus on "Development" back into the Child Care and Development Block Grant. Children are 20 percent of our population, but 100 percent of our future.

Today, 78 percent of mothers with school-age children are working. 65 percent of mothers with children under 6 are working. And, more than half of mothers with infants are working.

Most parents are simply not home full-time anymore. Many would like to be. For those who are, I introduced legislation in the Senate to provide a tax credit for stay-at-home parents. Because they, too, deserve support in their efforts to raise their children.

But most families don't have a choice. If the kids are going to eat, go to school, and have a roof over their heads, both parents must work. I don't know of any working parents who think that balancing work and family is easy. It's not.

Since 1996, the number of families receiving child care assistance has grown dramatically to about 2 million children today. But, for as many children who receive assistance, available child care funds reach only one out of seven eligible children.

Child care in too many communities is not affordable. And in too many more, it's not available, or, even worse, of dubious quality.

About 14 million children under the age of 6 are in some type of child care arrangement every day. This includes about 6 million infants. The cost of care averages between \$4,000 and \$10,000 a year, more than the cost of tuition at any state university.

Far too many of America's parents are left with far too little choice.

Nearly 20 States currently have waiting lists for child care assistance. Every State has difficulty meeting child care needs. No state serves every eligible child.

Now, I know that there are some who say that we don't need more money for child care, that during the last few years we have pumped billions more into child care. But, I think we have a responsibility to look at what has happened over the last few years as well.

The welfare caseload dropped by 1.8 million families from 1996 to 1999. The majority of welfare leavers are now employed in low wage jobs.

The share of TANF families working or participating in work-related activities while receiving TANF has soared to nearly 900,000 in fiscal year 99.

Between 1996 and 1999, the number of employed single mothers grew from 1.8 million to 2.7 million.

According to the Congressional Research Service, there has been a marked increase in single mothers

working, from 63.5 percent in 1996 to 73 percent in 2001.

But, let's face it. Most welfare leavers are leaving for low wage jobs. On average, they are making \$7 or \$8 an hour. They are working, but they are still struggling to get by. Many low wage parents move from one low wage job to another, but rarely to a high wage job. Therefore, even over time, these parents still need child care assistance to stay employed.

I am very concerned that the Administration's welfare reauthorization plan, with no additional funds for child care, will result in States shifting assistance from the working poor to those on welfare. House Republicans joined with Secretary Thompson on Wednesday to announce the introduction of the President's welfare plan in the House. One change they made to address child care needs was to allow states additional flexibility to transfer 50 percent of TANF funds to child care instead of 30 percent under current law.

Since States are already spending all of their TANF money and the Administration's welfare plan adds significant additional work requirements for TANF recipients, I just don't see what giving the States additional flexibility buys them in child care dollars. At best, it's robbing Peter to pay Paul, taking cash assistance payments away from welfare parents to pay for child care for working TANF parents. That makes no sense. So, instead of robbing assistance from the working poor to pay for child care assistance for welfare recipients, states would rob welfare assistance directly from the worst off who are not working to pay for child care for those on welfare who are working? What's the logic? How does this help anyone?

We held two hearings on child care in March. At one hearing, a woman from Maine testified who earns about \$18,000 a year, pays half her income in child care every week, but remains on a waiting list to receive assistance. In the meantime, she and her two year old sleep on her grandmother's couch because she can't afford a place of her own.

At another hearing, a woman from Florida with \$13,000 in earnings a year recently lost her child care assistance because in Florida families working their way off TANF have only 2 years of transitional child care. After that, they must join the waiting list of some 48,000 children. Because she lost her child care assistance and the state waiting list is so long, this woman may have to return to welfare.

I've heard some say the answer is flexibility, that if we give the States more flexibility, then they will step up to the plate. A more realistic prediction would be that if we give states the resources, they will step up to the plate.

Let me tell you what flexibility without sufficient resources leads to: low eligibility levels, no outreach, low provider reimbursement rates, high co-

pays, and waiting lists. Sound familiar? That's right. With the cost of child care today, even with additional resources provided over the last several years, too many of the states are forced to restrict access to low income working parents. Assistance that is provided often limits parents' choices.

We can do better than this. Too often I hear about low income families stringing together whatever care they can find so that they can hold their jobs. For many this means Grandma one day, an aunt the next day, an uncle the following day, and then maybe the aunt's boyfriend.

It's no wonder that 46 percent of kindergarten teachers report that half or more of their students are not ready for kindergarten.

We need to look at these issues in an integrated manner. The education bill that the President recently signed will require schools to test every child every year from 3rd through 8th grade, and the results of those tests will be used to hold schools accountable.

But, if we expect children to be on par by third grade, we need to look at how they start school. The learning gap doesn't begin in kindergarten, it is first noticed in kindergarten.

If we are serious about education reform, we need to look at the child care settings children are in and figure out how to strengthen them. Seventy-five percent of children under 5 in working families are in some type of child care arrangement. Too often it is of poor quality.

The bill we are introducing today is geared toward improving the quality of care to promote school readiness while expanding child care assistance to more working poor families.

The Child Care and Development Block Grant is designed to give parents maximum choice among child care providers. In our bill, we retain parental choice, but provide States with a number of ways to help child care providers improve the quality of care that they provide.

We set aside 5 percent of child care funds to promote workforce development, helping States to improve child care provider compensation and benefits, offer scholarships for training in early childhood development, initiate or maintain career ladders for childhood care professional development, foster partnerships with colleges and "resource & referral", R&Rs, organizations to promote teacher training in the social, emotional, physical, and cognitive development of children, including preliteracy and oral language so necessary for school readiness.

We set aside 5 percent of child care funds to help States increase the reimbursement rate for child care providers to ensure that parents have real choices among quality providers. Under current law, child care payment rates are supposed to be sufficient "to ensure equal access for eligible children to comparable child care services in the State or substate area that are provided to children whose parents are not

eligible to receive assistance". But, low State reimbursement rates do not offer parents comparable care.

The children of working parents need quality child care if they are to enter school ready to learn. Yet, 30 States require no training in early childhood development before a teacher walks into a child care classroom. Forty-two States require no training in early childhood development before a family day care provider opens her home to unrelated children.

Our bill would require States to set training standards, just as they are required to do now for health and safety under current law. Such training would go beyond CPR and first aid to include training in the social, emotional, physical, and cognitive development of children.

Relatives would be exempt, but through the quality funding in CCDBG, States could partner with colleges and R&Rs to provide training to relatives and informal caregivers on a voluntary basis. Initial evaluations in Connecticut of such efforts show that relatives and informal caregivers are voluntarily participating and are feeling better about themselves and their interactions with the children have improved.

Leading studies have found that early investments in children can reduce the likelihood of being held back in school, reduce the need for special education, reduce the dropout rate of high school students, and reduce juvenile crime arrest rates.

If we don't improve both the quality of child care that our children now spend so much time in and expand access to child care assistance to more of the working poor, we will be in danger of missing the boat on a whole generation of children.

I think I speak for all of the cosponsors of this legislation that we hope to mark up child care in conjunction with the Finance Committee consideration of welfare reform.

Ms. SNOWE. Madam President, I rise today to join my good friend and colleague Senator DODD, in introducing the "Access to High Quality Child Care Act of 2002." This legislation seeks to build upon Congress' efforts in 1996 to reform the Nation's welfare system and with it, overhaul the Nation's largest child care assistance program, the Child Care Development Block Grant.

One of the most important tasks before Congress this session is the reauthorization of two critical public assistance laws, the landmark 1996 welfare reform law, and the Child Care Development Block Grant. Together, these two programs, which are inextricably linked, comprise the backbone for our Nation's support infrastructure for working families.

The 1996 welfare law reformed the entire nature of the welfare system, ending welfare as a way of life and making it instead a temporary program, providing a hand up instead of a hand out to families making the transition from

welfare to work. The Child Care Development Block Grant, working with the welfare law, provides more than \$4.8 billion for child care in 2002, giving assistance to those families that are in transition as well as those who have already successfully made it out of the welfare system, and helping them stay out of the welfare system by helping them meet the high cost of child care. The result is that since 1996, with more parents working, more children than ever before are receiving child care subsidy assistance.

The key to the successful welfare reform, as witnessed by the 52 percent decline in welfare caseloads since 1996, is the system of work supports that provides assistance to working parents to help them make ends meet while in low paying jobs, and sustain the family's successful transition from welfare to self sufficiency. And perhaps the most critical of all work supports is child care. Without access to quality child care, a parent is left with two choices, to leave their child in a unsafe, and often unsupervised situation, or to not work at all. Frankly, neither option is acceptable.

This is the underlying philosophy behind the legislation we introduce today: to ensure that working parents have access to affordable, high quality child care.

From the onset, our goal has been to reauthorize the Child Care Development Block Grant to ensure the working parents of America can continue their jobs with the peace of mind that their children are in a safe and quality child care situation, whether it is at a child care center, a relative's home, or in their own home.

We do so by increasing the amount of funding set aside to raise the quality of care, giving states the ability to improve strengthen their child care workforce. States will have the option to choose how they will do so, but options include partnering with community colleges and Resource and Referral agencies to provide training in early childhood development to the workforce, or by simply increasing child care worker's wages. Astonishingly, the national average salary for a child care worker is between \$15,000 and \$16,000, and usually with few benefits. This legislation would give states even greater flexibility to decide how to improve quality using even greater resources.

Additionally, our legislation simplifies and streamlines the use of federal welfare dollars for child care, whether it be spent directly on child care or whether it is transferred to the Child Care Development Block Grant, while holding these expenditures to the same health and safety standards as those under the CCDBG. As a member of the Senate Finance Committee, which has the jurisdiction over the welfare reauthorization, fixing what's wrong with the rules regarding the use of federal welfare funding for child care is a high priority of mine as welfare

works its way through Committee consideration.

Approximately 14 million children under the age of six are regularly in child care, corresponding with the fact that 65 percent of mothers with children under age six are in the workforce. Considering that the goal of welfare reform is to move people off the welfare rolls and onto payrolls, offering help with the cost of child care is one sure way to ensure that parents can work. Child care is expensive and often difficult to find. In some states, child care costs as much as four years in a public college. And that's even before considering the additional cost of caring for infants, or for odd hour care for those working nights or weekends, or care for children with special needs.

And the fact is, we know child care pays off in encouraging more parents on welfare to find and keep a job. States have devoted significant funding to child care assistance, and have redirected the bulk of unspent federal welfare dollars under the Temporary Assistance for Needy Families block grant, TANF, and state Maintenance of Effort, MOE, dollars to child care assistance. In 2000 alone, states transferred \$2.4 billion in TANF dollars to the Child Care and Development Block Grant, and spent an additional \$1.5 billion in direct TANF dollars for child care. Why? Because they realize that child care assistance keeps parents working and that is the key to self sufficiency.

However, since parents who are making the transition from welfare to work typically hold minimum wage jobs, those workers' ability to place their children in quality child care often stretches their families' budget to the limit. And while these families may no longer be in need of, or eligible for, cash assistance, without child care assistance, they may be forced back on the welfare rolls.

The fact of the matter is, quality affordable child care remains difficult to afford for families nationwide. This reality was made clear last month, when a young woman from Maine, Sheila Merkinson, testified before Senator DODD's Health, Education, Labor and Pensions Subcommittee, that the cost of her son's child care absorbs 48 percent of her weekly income, leaving her to provide for her family with only half of her \$18,000 a year earnings. Sadly, Sheila's situation is not unique.

Our legislation will help Sheila, and thousands like her, by improving the current child care delivery system, and increases the funding for the Child Care Development Fund to meet the needs established by the welfare work requirements. This link not only makes sense, it also is critical, responsible and essential for the future of our nation's children and families.

Mr. JEFFORDS. Madam President, I would like to thank Senators DODD, SNOWE, DEWINE, BREAU, REED, ROCKEFELLER, and COLLINS for their hard work and dedication to helping provide

working families with access to high-quality child care, and I am proud to be an original co-sponsor of this important legislation. Senator DODD and I have been working together on this and other critical issues affecting children for over twenty years now. And, I look forward to continue working with him and my esteemed colleagues as we move forward in helping children and families across the country.

A recent Administration report reveals that as many as 75 percent of children under the age of five in this country are in some form of child care arrangement. And, as more mothers of young children enter the workforce, working families need even greater access to higher quality child care. In my State of Vermont, approximately 87 percent of Vermont children under the age of six live with two working parents, and only 56 percent of the estimated need for child care in Vermont is met through regulated care.

The evidence overwhelmingly demonstrates that the quality of early child care and education has a significant effect on children's health and development and their readiness for school. According to a recent study, children participating in quality, comprehensive early care and education programs had a 29 percent higher rate of high school completion, a 41 percent reduction in special education placement, a 40 percent reduction in the rate of grade retention, a 33 percent lower rate of juvenile arrest, and a 42 percent reduction in arrest for a violent offense.

All other industrialized nations acknowledge the great value of early care and education, and make the care and education of toddlers and pre-schoolers a mandatory part of their public education system, and pay for it. Unfortunately, the United States does not.

Quality child care is available in the United States to young parents, but in many cases, it costs more than ten thousand dollars per year. This is almost twice the cost of going to many public colleges.

Earlier last week, the President proposed an initiative to strengthen early learning. He stated that he wants every child to enter school ready to learn. I am pleased that the President is making the care and education of our youngest children a priority. However, if we really want to help all children enter school ready to learn, then we need to actually provide the resources to do so. The costs of quality child care exceed what most working families can afford. Yet, unbelievably, the President has proposed NO additional funding to help families gain access to quality child care. This just doesn't make any sense.

Many States across the country are working hard to improve the quality and accessibility of child care, but they simply do not have the resources to provide sufficient access and quality. For example, the State of Vermont spends approximately \$33 million to

provide working families with access to child care and to improve the quality of child care around the State. For a small State like Vermont, this is a lot of money, but is hardly sufficient to provide the type of access and quality necessary to make sure all kids enter school ready to learn. The State would need an additional \$40 to \$50 million to effectuate real change.

And further, due to the recent economic downturn, a majority of the States has reported revenues well below expected levels. Accordingly, while the States want to do more to further the quality and accessibility of child care, many States will actually have less money to spend on helping families with quality care and education. Again, the President has proposed no additional funding to help States provide families with quality child care. On the contrary, we must significantly increase funding for child care to help States and local communities provide this vital support to working families and their children.

I am proud to be an original co-sponsor of the new Access to High Quality Child Care Act of 2002.

The 2002 ACCESS Act not only helps provide families with greater access to child care, but also significantly raises the bar on the quality of child care in this country. The 2002 ACCESS Act provides States with real resources to help them improve the quality of child care for working families. It allows for great flexibility, yet holds States accountable for making real quality improvements.

Research shows that qualified and well-trained providers are critical to supporting and enhancing the cognitive and social development of children in child care. The 2002 ACCESS Act helps States strengthen the quality of the child care workforce by setting aside a dedicated portion of funds to support State initiatives that improve both the qualifications and the compensation of child care providers.

The ACCESS Act also helps States increase child care provider reimbursement rates to more accurately reflect the true cost of care. It helps States provide training and technical assistance to informal and family child care providers as well as center-based providers. It helps States develop and expand resource and referral services. It helps families gain access to quality child care for infants and toddlers, and children with special needs. It provides oversight to child care centers situated on Federal property. And, the ACCESS Act also helps States leverage funding to provide technical assistance, and share in the cost of construction and improvement of child care facilities and equipment.

I believe that we all recognize that the foundation for learning begins in the earliest years of life. However, a failure to nurture development in these early years is a lost opportunity forever. The 2002 ACCESS Act provides States and local communities with a

real opportunity to nurture that development and improve the quality of care for our youngest children in this country so that all of our children enter school ready to learn. I urge my colleagues to support this bold, yet critical initiative, so that indeed, every child truly has an opportunity to learn.

Mr. DEWINE. Madam President, I rise today to join my colleagues, Senators SNOWE and DODD, in introducing the Access to High Quality Child Care Act, ACCESS. This legislation would reauthorize the Child Care and Development Block Grant through 2007 and rename it the ACCESS Act.

We all know that our children are the most vulnerable members of our population and our most valuable resources. Today, 75 percent of children less than five years of age are in some kind of regular childcare arrangement. Parents need to feel confident that the people caring for their children are giving the love and support that children deserve. The bill we are introducing today would help give parents that kind of piece of mind.

There are two pieces of the ACCESS Act that I would like to focus on because they are vital to improving the accessibility of high quality care. Last year, Senator DODD and I introduced the Child Care Facilities Financing Act, which uses small investments to help leverage existing community resources. In my home State of Ohio, and throughout the country, resources for the development or enhancement of space are extremely scarce for childcare facilities. This leveraging approach has been successful in helping expand childcare capacity. Let me give you an example.

Wonder World in Akron, OH, is an urban childcare center located in an old church. This facility was in dire need of repairs. The upstairs space was poorly lit and not well ventilated, and the downstairs was a damp basement. The childcare rooms had no windows and no direct access to bathrooms or a kitchen. There was no outdoor play space. This environment, itself, had a negative effect on the children, no matter how dedicated the caregivers. In spite of these dismal conditions, the center had a waiting list. There were no other choices for affordable childcare facilities within the community!

Fortunately, in Ohio, we have the Ohio Community Development Finance Fund, OCDF, which is a statewide nonprofit organization that works with local organizations in low-income communities. This fund was able to coordinate public and private monies to build a new eight-room childcare facility, a facility that serves approximately 200 children! It is programs like OCDF that are possible under the Child Care Facilities Fund. The ACCESS Act includes the language from the Child Care Facilities Fund bill that Senator DODD and I introduced, which authorizes \$50 million dollars for the Child Care Facilities Fund.

The second most important part of our ACCESS Act is a section that contains vital language to help provide emergency childcare services. This section would allow parents to access quality care when their childcare provider is sick or has a family emergency. The need for this type of care was made clear by a tragic incident that happened in Ohio, when little two-year-old Charles Knight's mother had to go to work and had no one available to care for Charles and his siblings.

The boy's father was supposed to baby-sit, but he failed to show up that day. Charles' mother tried to find a neighbor or family member to care for her children, but no one was available. Tragically, she made the poor decision to leave her sleeping children unattended, so she could work her 12-hour shift. She thought her boys' father would eventually show up and baby-sit while she worked.

The father never arrived. Charles was able to climb up on the balcony. This young, unsupervised child fell nine stories off the apartment balcony to his death. His mother was charged with manslaughter, and his father was charged with child neglect.

This sad incident just might have been prevented with emergency childcare centers. With access to such a center, Charles' mother could have gone to work knowing her children were safe and secure.

Just last month, Summit County, OH, started a program called ChildCare NOW in response to an alarming spike in child death and injuries. ChildCare NOW is being offered at 17 centers in the Akron-Canton area of Ohio. These childcare centers are opening their doors to many parents whose baby-sitter cancels at the last minute. This program is not meant as a permanent childcare replacement but when an "emergency" arises, these are safe alternatives to parental care.

The language I have included in this bill, emphasizes that local and State childcare agencies may use funds on emergency childcare programs, programs like ChildCare NOW. More importantly, the next time a mother must choose between going to work and leaving her children all alone or staying at home and losing a day's pay, she will have a third option, to leave her children in an emergency child care center. I think that is an important option that we must give to working mothers. It is my hope that this language will prevent future tragedies like the death of two-year-old Charles Knight.

Once again, I want to thank Senator SNOWE and Senator DODD for their work on the ACCESS Act. This bill is necessary for parents who work, especially parents who have worked hard to get off welfare. They should be confident that their children are receiving quality care.

Mr. BREAUX. Madam President. I am pleased to be a cosponsor of the 2002 ACCESS Act. It is imperative that the

Congress continue its commitment to low-income families by presenting the President with a bipartisan bill reauthorizing the Child Care and Development Block Grant.

I share the Administration's goal to "Leave No Child Behind." Children should not be the victims of welfare reform, left behind with inconsistent child care accommodations that do not adequately prepare them for the challenges to come. It is precisely this cycle of dependency and poverty that welfare reform was intended to end.

In 1996, we fundamentally changed the mentality of welfare from dependence to independence by creating the Temporary Assistance to Needy Families TANF, block grant. At the same time, we made a commitment to poor families that were sent into the work force at low wages that they would be supported with access to quality child care.

Reliable child care is directly related to job retention. A parent cannot be in two places at once, and an employer is not likely to retain an employee that is unreliable at work due to a lack of consistent care for their child. It is not just about getting a job, this is about helping families keep their jobs and move up the career ladder.

In Louisiana, I hear over and over again about access to safe and affordable child care. The legislation being introduced today will ensure that child care provided to these families is not only affordable, but that it meets certain safety and quality standards to ensure children are placed in an environment where they can grow and learn.

Access to child care is often limited by states to families with the lowest incomes. National studies show only 12-15 percent of children eligible for federally subsidized child care get it. And in many rural areas, there are no child care providers at all. So as Congress debates increasing work requirements for people on welfare, the increasing need for working families to have quality child care must also be taken into consideration.

I commend Senators DODD and SNOWE for their efforts to increase access to child care for low income families, while improving the quality of child care services.

By Mr. JEFFORDS:

S. 2118. A bill to amend the Toxic Substances Control Act and the Federal Insecticide, Fungicide, and Rodenticide Act to implement the Stockholm Convention on Persistent Organic Pollutants and the Protocol on Persistent Organic Pollutants to the Convention on Long-Range Transboundary Air Pollution; to the Committee on Environment and Public Works.

Mr. JEFFORDS. Madam President, I rise today to introduce the POPs Implementation Act of 2002.

POPs, or persistent organic pollutants, are chemicals that are persistent,

bioaccumulate in human and animal tissue, biomagnify through the food chain, and are toxic to humans. These substances travel across international boundaries, creating a circle of pollution requiring a global solution.

In April 2001, one year ago, President Bush announced his support for the Stockholm Convention on Persistent Organic Pollutants, POPs, and in May 2001, the U.S. signed the Convention. I share the President's enthusiasm for this sound and workable treaty that targets chemicals detrimental to human health and the environment.

The Stockholm Convention seeks the elimination or restriction of production and use of all intentionally produced POPs. The POPs that are to be initially eliminated include the pesticides aldrin, chlordane, dieldrin, endrin, heptachlor, mirex, and toxaphene, and the industrial chemicals hexachlorobenzene and polychlorinated biphenyls, PCBs. Use of the pesticide DDT is limited to disease control until safe, effective, and affordable alternatives are identified. The Convention also seeks the continuing minimization and, where feasible, ultimate elimination of releases of unintentionally produced POPs such as dioxins and furans.

Today, I am introducing a bill to amend the Toxic Substances Control Act, TSCA, and the Federal Insecticide, Fungicide, and Rodenticide Act, FIFRA, to implement the Stockholm Convention on POPs and the Protocol on POPs to the Convention on Long-Range Transboundary Air Pollution. These are the first amendments to TSCA since its enactment in October 1976.

Currently in the U.S., the registrations for nine of the twelve POPs covered by the Stockholm Convention have been canceled, the manufacture of PCBs has been banned, and stringent controls have been placed on the release of the other covered chemicals. The POPs Implementation Act of 2002 provides EPA with the authority, which it currently does not have, to prohibit the manufacture for export of the twelve POPs and POPs that are identified in the future. In addition, this legislation provides a science-based process consistent with the Stockholm Convention for listing additional chemicals exhibiting POPs characteristics, thereby attempting to avoid the further production and use of POPs. To assist in this goal, the National Academy of Sciences is directed to develop new strategies to screen candidate POPs and new sampling methodologies to identify future POPs.

Although a previous EPA draft included a mechanism for adding new chemicals, the Administration's current POPs implementation package does not. The Stockholm Convention was not intended to be a static agreement, as it explicitly provides for the additional of new chemicals. If we are to be most effective in globally reducing these dangerous chemicals, we must fully commit to this treaty.

By Mr. GRASSLEY (for himself and Mr. BAUCUS):

S. 2119. A bill to amend the Internal Revenue Code of 1986 to provide for the tax treatment of inverted corporate entities and of transactions with such entities, and for other purposes; to the Committee on Finance.

Mr. GRASSLEY. Madam President, I rise today to offer a bill on behalf of Senator BAUCUS and myself, to address the growing problem of corporate inversions. Our legislation, the "Reversing the Expatriation of Profits Offshore," REPO Act, will stem the rising tide of corporate inversions.

It's tax season. Citizens across America are filing their taxes this week. They're paying their taxes. A lot of taxes. But some corporate citizens are relaxing this tax season. They've moved their mailing address out of the country. They've set up a filing cabinet and a mail box overseas. This way, they escape from millions of dollars of Federal taxes.

These corporate expatriations aren't illegal. But they're sure immoral. During a war on terrorism, coming out of a recession, everyone ought to be pulling together. But instead, these companies are using recession and terrorism to get out of the United States. If companies don't have their hearts in America, they ought to get out.

Adding insult to injury, some of these companies have fat contracts with the government. So they'll take other people's tax dollars to make a profit, but they won't pay their share of taxes to keep America strong.

The bill Chairman BAUCUS and I are introducing today will place corporate inversions on the endangered species list. Our bill requires the IRS to look at where a company has its heart and soul, not where it has a filing cabinet and a mail box. If a company remains controlled in the United States, our bill requires the company to pay its fair share of taxes, plain and simple.

When I am firmly committed to halting corporate inversions, I also recognize that the rising tide of corporate expatriations demonstrates that our international tax rules are deeply flawed. In many cases, those flaws seriously undermine an American company's ability to compete in the global marketplace. This competitive disadvantage is often cited by companies that engage in inversion transactions.

I believe that we need to bring our international tax system in line with our open market trade policies, and wish to affirm for the record that reform of our international tax laws is necessary for our U.S. businesses to remain competitive in the global marketplace. Moreover, those U.S. companies that rejected doing a corporate inversion are left to struggle with the complexity and competitive impediments of our international tax rules. This is an unjust result for companies that chose to remain in the United States of America. I am committed to remedying this inequity.

Mr. President, I ask unanimous consent that the text of the bill and a technical explanation be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2119

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 "Reversing the Expatriation of Profits Offshore Act".

SEC. 2. TAX TREATMENT OF INVERTED CORPORATE ENTITIES.

(a) IN GENERAL.—Subchapter C of chapter 80 of the Internal Revenue Code of 1986 (relating to provisions affecting more than one subtitle) is amended by adding at the end the following new section:

"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, 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.

"(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 '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, 2002.

"(c) TAX ON INVERSION GAINS MAY NOT BE OFFSET.—If subsection (b) applies—

"(1) IN GENERAL.—The taxable income of an acquired 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 chapter 1 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 taxable income described in paragraph (1) for the taxable year, and

"(B) the highest rate of tax specified in section 11(b)(1).

"(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) 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 the 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.

"(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 subsection.

“(d) SPECIAL RULES APPLICABLE TO RELATED PARTY TRANSACTIONS.—

“(1) ANNUAL PREAPPROVAL REQUIRED.—

“(A) IN GENERAL.—An acquired entity to which subsection (b) applies shall enter into an annual preapproval agreement under subparagraph (C) with the Secretary for each taxable year which includes a portion of the applicable period.

“(B) FAILURES TO ENTER AGREEMENTS.—If an acquired entity fails to meet the requirements of subparagraph (A) for any taxable year, then for such taxable year—

“(i) there shall not be allowed any deduction, or addition to basis or cost of goods sold, for amounts paid or incurred, or losses incurred, by reason of a transaction between the acquired entity and a foreign related person,

“(ii) any transfer or license of intangible property (as defined in section 936(h)(3)(B)) between the acquired entity and a foreign related person shall be disregarded, and

“(iii) any cost-sharing arrangement between the acquired entity and a foreign related person shall be disregarded.

“(C) PREAPPROVAL AGREEMENT.—For purposes of subparagraph (A), the term ‘preapproval agreement’ means a prefilling, advance pricing, or other agreement specified by the Secretary which—

“(i) is entered into at such time as may be specified by the Secretary, and

“(ii) contains such provisions as the Secretary determines necessary to ensure that the requirements of sections 163(j), 267(a)(3), 482, and 845, and any other provision of this title applicable to transactions between related persons and specified by the Secretary, are met.

“(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 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, 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.

“(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), 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.

“(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-through 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) TREATMENT OF AGREEMENTS.—

(1) CONFIDENTIALITY.—

(A) TREATMENT AS RETURN INFORMATION.—Section 6103(b)(2) of the Internal Revenue Code of 1986 (relating to return information) is amended by striking “and” at the end of subparagraph (C), by inserting “and” at the end of subparagraph (D), and by inserting after subparagraph (D) the following new subparagraph:

“(E) any preapproval agreement under section 7874(d)(1) to which any preceding subparagraph does not apply and any background information related to the agreement or any application for the agreement.”.

(B) EXCEPTION FROM PUBLIC INSPECTION AS WRITTEN DETERMINATION.—Section 6110(b)(1)(B) of such Code is amended by striking “or (D)” and inserting “, (D), or (E)”.

(2) REPORTING.—The Secretary of the Treasury shall include with any report on advance pricing agreements required to be submitted after the date of the enactment of this Act under section 521(b) of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106-170) a report regarding preapproval agreements under section 7874(d)(1) of the Internal Revenue Code of 1986. Such report shall include information similar to the information required with respect to advance pricing agreements and shall be treated for confidentiality purposes in the same manner as the reports on advance pricing agreements are treated under section 521(b)(3) of such Act.

(c) CONFORMING AMENDMENTS.—The table of sections for subchapter C of chapter 80 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

“Sec. 7874. Rules relating to inverted corporate entities.”

SEC. 3. REINSURANCE OF UNITED STATES RISKS IN FOREIGN JURISDICTIONS.

(a) IN GENERAL.—Section 845(a) of the Internal Revenue Code of 1986 (relating to allocation in case of reinsurance agreement involving tax avoidance or evasion) is amended by striking “source and character” and inserting “amount, source, or character”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any risk reinsured after April 11, 2002.

REVERSING THE EXPATRIATION OF PROFITS OFFSHORE, REPO, ACT—TECHNICAL EXPLANATION OF THE STAFF OF THE COMMITTEE ON FINANCE

Senate Finance Committee Ranking Member Chuck Grassley, R-IA, and Chairman Max Baucus, D-MT, today are offering their legislative response to the growing problem of corporate inversions, the “Reversing the Expatriation of Profits Offshore”, REPO, Act. Following is a brief summary of the REPO Act.

In general, this legislation would curtail the tax benefits sought by U.S. companies undertaking inversion transactions. The legislation would apply to two types of inversion transactions, which would be subject to different regimes under the proposal.

The first type would be a “pure” or nearly pure inversion, in which: 1. a U.S. corporation becomes a subsidiary of a foreign corporation or otherwise transfers substantially all of its properties to a foreign corporation; 2. the former shareholders of the U.S. corporation end up with 80 percent or more (by vote or value) of the stock of the foreign corporation after the transaction; and 3. the foreign corporation, including its subsidiaries, does not have substantial business activities in its country of incorporation. The legislation would deny the intended tax benefits of this type of inversion by deeming the top-tier foreign corporation to be a domestic corporation for all purposes of the Internal Revenue Code. This proposal would be effective as to inversion transactions occurring on or after March 21, 2002.

For purposes of this proposal, corporations with no significant operating assets, few or no permanent employees, or no significant real property in the foreign country of incorporation would not be treated as meeting the substantial business activities test. In addition, companies would not be considered to be conducting substantial business activities in the country of incorporation by merely holding board meetings in the foreign country or by relocating a limited number of executives to the foreign jurisdiction.

The second type of inversion covered by the legislation would be a transaction similar to the “pure” inversion defined above, except that the 80 percent ownership threshold is not met. In such a case, if a greater-than-50 percent but less than 80 percent ownership threshold is met, then a second set of rules would apply to these “limited” inversions.

Under these rules, the inversion transaction would be respected, i.e., the foreign corporation would be respected as foreign, but: 1. the corporate-level “toll charge” for establishing the inverted structure would be strengthened, and 2. restrictions would be placed on the company’s ability to reduce U.S. tax on U.S.-source income going forward. These measures generally would apply for a 10-year period following the inversion. This prong of the proposal would be effective as to inversion transactions in this second category occurring on or after March 21, 2002. It would also be effective as to all structures arising from pure inversions or limited inversions that are grandfathered under the legislation, but it would be applied to those structures prospectively.

Under the legislation, the corporate-level “toll charge” imposed under sections 304, 311(b), 367, 1001, 1248, or any other provision of the Internal Revenue Code with respect to the transfer of controlled foreign corporation stock or other assets from a U.S. corporation to a foreign corporation would be taxable, without offset by any other tax attributes, e.g., net operating losses or foreign tax credits. No similar “walling-off” of toll charges would apply to shareholder-level toll charges imposed under section 367(a).

In addition, no deductions or additions to basis or cost of goods sold for transactions with foreign related parties would be permitted unless the taxpayer concludes an annual pre-filing agreement, advance pricing agreement, or other agreement with the IRS, a "preapproval agreement", to ensure that all related-party transactions comply with all relevant provisions of the Code, including sections 482, 845, 163(j), and 267(a)(3). Similarly, the transfer or license of intangible property from a U.S. corporation to a related foreign corporation would be disregarded, and cost-sharing arrangements would not be respected unless approved under such an agreement.

The confidentiality and disclosure rules normally applicable to advance pricing agreements would apply to all preapproval agreements entered into pursuant to this legislation, and the parameters for the IRS's statutorily required annual APA report would be amended to require a summary section for inversion transactions.

The second set of measures also includes modifications to the "earnings stripping" rules of section 163(j) (which deny or defer deductions for certain interest paid to foreign related parties), as applied to inverted corporations. The legislation would eliminate the debt-equity threshold generally applicable under that provision and reduce the 50 percent threshold for "excess interest expense" to 25 percent.

The provisions of both prongs of this legislation also would apply to certain partnership transactions similar to corporate inversion transactions.

The legislation also strengthens the present-law rules of section 845(a) in a manner intended to address reinsurance transactions with foreign related parties that have the effect of stripping out earnings of a U.S. corporation, regardless of whether an inversion transaction has occurred. The legislation modifies the present-law provision permitting the Treasury Department to allocate or recharacterize items of investment income, premiums, deductions, assets, reserves, credits or other items, or to make other adjustments, under a reinsurance agreement between related parties, if necessary to reflect the proper source and character of income. The legislation permits such an allocation, recharacterization or adjustment if necessary to reflect the proper amount, source or character of income. This provision would be effective for any risk re-insured after April 11, 2002.

Mr. BAUCUS. Madam President, I am pleased to be a co-sponsor, with Senator GRASSLEY, of this important piece of legislation. Our legislation, Reversing the Expatriation of Profits Offshore, (REPO), Act, is designed to put the brakes on the potential rush to move U.S. corporate headquarters to tax havens, through increasingly popular transactions known as corporate inversions. Prominent U.S. companies are literally re-incorporating in offshore tax havens in order to avoid U.S. taxes. They are, in effect, renouncing their U.S. citizenship to cut their tax bill.

Tax avoidance costs honest taxpayers tens of billions of dollars each year. When one taxpayer, whether a corpora-

tion or an individual, doesn't pay their fair share of taxes, we all pay. The REPO Act cracks down on corporations that avoid taxes at the expense of honest, hardworking American taxpayers.

The local hardware store in Butte, MT, isn't re-incorporating in Bermuda or one of these tax haven countries. He is keeping his company an American company. The companies reincorporating in tax haven countries, and their executives, are still physically located in the United States. Their executives and employees enjoy all the privileges afforded to honest U.S. taxpayers.

I understand that the corporate inversion issue is complex. I also understand that, over the long term, we may need to consider whether the structure of the U.S. international tax rules creates an incentive for U.S. corporations to shift their operations abroad in order to remain competitive. For now, we are putting a stop to the erosion of the U.S. tax base through these tax avoidance schemes.

Our legislation distinguishes between two types of inversions, pure inversions and limited inversions. A pure inversion is when a U.S. company becomes a subsidiary of a foreign company or shifts substantially all of its properties to a foreign corporation and 80 percent of more of the shareholders in the original U.S. company are now shareholders in the new foreign company. The foreign company has no substantial business activity in the foreign tax haven country. Companies that hold board meetings in the tax haven country or send a few employees or executives to work in the tax haven country will not meet the substantial business activity standard. Under our legislation, the parent company will be treated as a U.S. company.

A limited inversion transaction is when more than 50 percent and fewer than 80 percent of the shareholders are the same. The new foreign company is recognized as a foreign company for tax purposes but there is a tax cost. The company won't be able to use tax attributes, such as net operating losses and foreign tax credits, to offset the gain incurred upon inverting. Finally, the company won't be able to strip earnings out of the U.S. to avoid U.S. taxes.

This week is the last week leading up to the April 15 tax filing deadline. Families in Montana and across the nation are sitting down at their kitchen tables, or at their home computers, and figuring out their taxes. The calculations may be complex, the tax bite may seem high, but by and large, with quiet patriotism, average Americans will step up and pay the tax they owe. They're counting on us to make sure that sophisticated corporations pay their fair share, as well.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 236—COMMENDING THE UNIVERSITY OF MINNESOTA-DULUTH BULLDOGS FOR WINNING THE 2002 NATIONAL COLLEGIATE ATHLETIC ASSOCIATION DIVISION I WOMEN'S ICE HOCKEY NATIONAL CHAMPIONSHIP

Mr. DAYTON (for himself and Mr. WELLSTONE) submitted the following resolution; which was considered and agreed to:

S. RES. 236

Whereas on March 24, 2002, the defending NCAA Women's Ice Hockey National Champion, the University of Minnesota-Duluth Bulldogs, won the National Championship for the second straight year;

Whereas Minnesota-Duluth defeated Brown University in the championship game by the score of 3-2, having previously defeated Niagara University in the semi-final by the same score;

Whereas sophomore Tricia Guest scored the unassisted game-winning goal in the third period, and assisted in the Bulldogs' opening goal in the first period;

Whereas during the 2001-2002 season, the Bulldogs won 24 games, while losing only 6, and tying 4;

Whereas forward Joanne Eustace and defenseman Larissa Luther were both selected to the 2002 All-Tournament team;

Whereas forward and team captain Maria Rooth led the Bulldogs in scoring the last 2 years, and was named to the Jofa Women's University Division Ice Hockey All-American first team, the only first team repeat from 2001;

Whereas Minnesota-Duluth Head Coach, Shannon Miller, after winning the National Championship in 2 consecutive years, was named a finalist for the 2002 NCAA Division I Coach of the Year; and

Whereas all of the team's players showed tremendous dedication throughout the season toward the goal of winning the National Championship: Now, therefore, be it

Resolved, That the Senate—

(1) commends the University of Minnesota-Duluth Women's Ice Hockey Team for winning the 2002 NCAA Division I Collegiate Ice Hockey National Championship;

(2) recognizes the achievements of all the team's players, coaches, and support staff, and invites them to the United States Capitol to be honored;

(3) requests that the President—

(A) recognize the achievements of the University of Minnesota-Duluth Women's Ice Hockey Team; and

(B) invite them to the White House for an appropriate ceremony honoring a national championship team; and

(4) directs the Secretary of the Senate to—

(A) make available enrolled copies of this Resolution to the University of Minnesota-Duluth for appropriate display; and

(B) transmit an enrolled copy of the Resolution to every coach and member of the 2002 NCAA Division I Women's Ice Hockey National Championship Team.

**SENATE RESOLUTION 237—COM-
MENDING THE UNIVERSITY OF
MINNESOTA GOLDEN GOPHERS
FOR WINNING THE 2002 NA-
TIONAL COLLEGIATE ATHLETIC
ASSOCIATION DIVISION I MEN'S
HOCKEY NATIONAL CHAMPION-
SHIP**

Mr. DAYTON (for himself and Mr. WELLSTONE) submitted the following resolution; which was considered and agreed to:

S. RES. 237

Whereas on April 6, 2002, the University of Minnesota Men's Hockey Team won the National Championship for the first time in 23 years;

Whereas Minnesota defeated the University of Maine in overtime in the championship game by the score of 4-3, having previously defeated the University of Michigan in the semifinal by the score of 3-2;

Whereas Grant Potulny, from North Dakota, the team's only non-Minnesotan, scored the winning goal in overtime and was named the tournament's Most Outstanding Player;

Whereas during the 2001-2002 season, the Golden Gophers won 32 games, while losing only 8, and tying 4;

Whereas senior defenseman Jordan Leopold was named the winner of the Hobey Baker Memorial Award, given annually to the college hockey Player of the Year, and was also named an All-American for the second consecutive year;

Whereas senior forward Johnny Pohl was also named to the All-American team, and led the NCAA Division I in scoring;

Whereas senior goalie Adam Hauser was named to the "Frozen Four" All-Tournament team, became the all-time Western Collegiate Hockey Association leader in victories, and established Minnesota records for most wins, shutouts, and saves;

Whereas Minnesota Head Coach Don Lucia, after winning the National Championship in just his third season at Minnesota, was named a finalist for the 2002 Spencer Penrose Award, which is presented to the NCAA Division I National Hockey Coach of the Year; and

Whereas all of the team's players showed tremendous dedication throughout the season toward the goal of winning the National Championship: Now, therefore, be it

Resolved, That the Senate—

(1) commends the University of Minnesota Men's Hockey Team for winning the 2002 NCAA Division I Collegiate Hockey National Championship;

(2) recognizes the achievements of all the team's players, coaches, and support staff, and invites them to the United States Capitol to be honored;

(3) requests that the President—

(A) recognize the achievements of the University of Minnesota Men's Hockey Team; and

(B) invite the team to the White House for an appropriate ceremony honoring a national championship team; and

(4) directs the Secretary of the Senate to—
(A) make available enrolled copies of this Resolution to the University of Minnesota for appropriate display; and

(B) transmit an enrolled copy of the Resolution to every coach and member of the 2002 NCAA Division I Men's Hockey National Championship Team.

**SENATE RESOLUTION 238—COM-
MENDING THE UNIVERSITY OF
MINNESOTA GOLDEN GOPHERS
FOR WINNING THE 2002 NCAA DI-
VISION I WRESTLING NATIONAL
CHAMPIONSHIP**

Mr. WELLSTONE (for himself and Mr. DAYTON) submitted the following resolution; which was considered and agreed to:

S. RES. 238

Whereas the University of Minnesota wrestling team successfully defended its 2001 national title by winning the 2002 National Collegiate Athletic Association championship on March 23, 2002, in Albany, New York;

Whereas the victory was the first back-to-back national championship in an intercollegiate athletic competition in University of Minnesota history since the Golden Gophers captured 2 consecutive national championship football titles in 1940 and 1941;

Whereas the University of Minnesota won the national crown with 126.5 points, over Iowa State (103 points), Oklahoma (101.5 points), Iowa (89 points) and Oklahoma State (82.5 points);

Whereas the University of Minnesota became the first Division I wrestling team since the 1995-96 season to go undefeated in dual meets and win the National Duals, conference and NCAA team titles in a single season and the first team to win these titles in consecutive seasons since the 1994-95 and 1995-96 seasons;

Whereas the Golden Gophers wrestling team has finished in the top 3 in the Nation in the last 6 years: placing third in 1997, being the runner up in 1998 and 1999; placing third in 2000; and winning the national title in 2001 and 2002;

Whereas the University of Minnesota wrestling team has now placed in the top 10 at the NCAA Championships 25 times in the history of the program;

Whereas Coach J. Robinson, as head coach of the University of Minnesota wrestling team, now has finished in the top 10 at the NCAA Championships 10 times during his 16-year tenure;

Whereas two members of the Minnesota wrestling team, Jared Lawrence and Luke Becker, each earned an individual national crown, marking the first time in school history that two Minnesota athletes were individual champions in a single NCAA sport in the same year;

Whereas Lawrence, at 149 pounds, and Becker, at 157 pounds, captured the 13th and 14th NCAA individual titles in school history, respectively;

Whereas Ryan Lewis, at 133 pounds, was the runner-up, Owen Elzen, at 197 pounds, finished in fourth place, Damion Hahn, at 184 pounds, finished in fifth place, Garret Lowney, at heavyweight, finished in fifth place, and Chad Erikson, at 141 pounds, finished in seventh place;

Whereas seven University of Minnesota wrestlers, Chad Erikson, Jared Lawrence, Luke Becker, Damion Hahn, Owen Elzen, Ryan Lewis, and Garrett Lowney, earned All-American honors; and

Whereas the Golden Gophers have now had 68 wrestlers earn 111 All-American citations in the history of the varsity wrestling program at the University of Minnesota: Now, therefore, be it

Resolved, That the Senate—

(1) commends the Golden Gophers of the University of Minnesota for winning the 2002 National Collegiate Athletic Association Division I Wrestling National Championship;

(2) recognizes the achievements of all the team's members, coaches, and support staff,

and invites them to the United States Capitol to be honored;

(3) requests that the President recognize the achievements of the University of Minnesota wrestling team and invite them to the White House for an appropriate ceremony honoring a national championship team; and

(4) directs the Secretary of the Senate to transmit a copy of this resolution to the President of the University of Minnesota.

**AMENDMENTS SUBMITTED AND
PROPOSED**

SA 3114. Mrs. FEINSTEIN proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

SA 3115. Mrs. FEINSTEIN (for herself and Mrs. BOXER) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra.

SA 3116. Mr. VOINOVICH (for himself and Ms. LANDRIEU) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3117. Mr. DODD (for himself and Mr. McCONNELL) proposed an amendment to the bill S. 565, to require States and localities to meet uniform and nondiscriminatory election technology and administration requirements applicable to Federal elections, to establish grant programs to provide assistance to States and localities to meet those requirements and to improve election technology and the administration of Federal elections, to establish the Election Administration Commission, and for other purposes.

SA 3118. Mr. DODD (for himself and Mr. McCONNELL) proposed an amendment to the bill H.R. 3295, supra.

SA 3119. Mr. BINGAMAN (for Mr. ROCKEFELLER) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

SA 3120. Mr. BINGAMAN (for Mr. LEVIN (for himself, Mr. DEWINE, and Ms. STABENOW)) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra.

SA 3121. Mr. BINGAMAN (for Mr. SCHUMER) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra.

SA 3122. Mr. BINGAMAN (for Mr. SMITH, of Oregon) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra.

SA 3123. Mr. BINGAMAN (for Mr. DURBIN (for himself and Ms. COLLINS)) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra.

TEXT OF AMENDMENTS

SA 3114. Mrs. FEINSTEIN proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas

through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

Beginning on page 195, strike line 19 and all that follows through page 196, line 4, and insert the following:

“(B) PETITIONS FOR WAIVERS.—

“(i) IN GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, shall approve or disapprove a State petition for a waiver of the requirement of paragraph (2) within 30 days after the date on which the petition is received by the Administrator.

“(ii) FAILURE TO ACT.—If the Administrator fails to approve or disapprove a petition within the period specified in clause (i), the petition shall be deemed to be approved.

SA 3115. Mrs. FEINSTEIN (for himself and Mrs. BOXER) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

On page 189, line 3, strike “2004” and insert “2005”.

On page 189, line 5, strike “2004” and insert “2005”.

On page 189, line 8, strike “2004” and insert “2005”.

On page 189, in the table between lines 10 and 11, strike the item relating to calendar year 2004.

On page 193, line 10, strike “2004” and insert “2005”.

On page 194, line 21, strike “2004” and insert “2005”.

On page 196, line 17, strike “2004” and insert “2005”.

On page 197, line 4, strike “2004” and insert “2005”.

On page 199, line 4, strike “2004” and insert “2005”.

On page 199, line 17, strike “2004” and insert “2005”.

SA 3116. Mr. VOINOVICH (for himself and Ms. LANDRIEU) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

DIVISION H—MISCELLANEOUS

TITLE —INTEGRATED REVIEW OF ENERGY DELIVERY SYSTEMS

SEC. —01. SHORT TITLE.

This title may be cited as the “Integrated Review of Energy Delivery Systems Act of 2002”.

SEC. —02. AUTHORIZATION AND ENVIRONMENTAL REVIEW OF ENERGY DELIVERY SYSTEMS UNDER FEDERAL LAW.

(a) DEFINITIONS.—In this section:

(1) APPLICANT.—The term “applicant” means a person that applies for, or submits notice of intent to apply for, an authorization required under Federal law for an energy delivery system.

(2) AUTHORIZATION.—The term “authorization” means a license, permit, exemption, or other form of authorization or reauthoriza-

tion, for a construction, operation, or maintenance activity.

(3) ELECTRICITY TRANSMISSION FACILITY.—

(A) IN GENERAL.—The term “electricity transmission facility” means a facility used in the transmission of electricity in interstate or foreign commerce.

(B) INCLUSIONS.—The term “electricity transmission facility” includes a transmission line, substation, or other facility necessary to the delivery of electricity.

(C) EXCLUSION.—The term “electricity transmission facility” does not include a generation facility.

(4) ENERGY DELIVERY SYSTEM.—The term “energy delivery system” means an oil and gas pipeline or pipeline system, or an electricity transmission facility, for which an authorization issued by 1 or more Federal agencies is required under Federal law.

(5) INTEGRATED REVIEW PROCESS.—The term “integrated review process” means the coordinated environmental review and authorization process described in subsection (c)(2)(B) for construction, operation, or maintenance of an energy delivery system.

(6) LEAD AGENCY.—The term “lead agency” means the Federal agency designated under subsection (c)(1) to conduct any environmental review, prepare any environmental review document, and carry out any other activity that—

(A) is required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(B) relates to construction, operation, or maintenance of an energy delivery system.

(7) OIL AND GAS PIPELINE OR PIPELINE SYSTEM.—

(A) IN GENERAL.—The term “oil and gas pipeline or pipeline system” means each part of a physical facility through which crude oil, petroleum product, or natural gas moves in transportation in interstate or foreign commerce.

(B) INCLUSIONS.—The term “oil and gas pipeline or pipeline system” includes—

(i) a pipe, valve, or other appurtenance attached to a pipe;

(ii) a compressor unit;

(iii) a metering station;

(iv) a regulator station;

(v) a delivery station;

(vi) a holder; and

(vii) a fabricated assembly.

(C) EXCLUSIONS.—The term “oil and gas pipeline or pipeline system” does not include a production or refining facility.

(8) PARTICIPATING AGENCY.—The term “participating agency” means a Federal or State agency that has authority to issue an authorization, or impose a condition on an authorization, for an energy delivery system under Federal law, or to participate in an environmental review relating to construction, operation, or maintenance of the energy delivery system, but that is not the lead agency with respect to construction, operation, or maintenance of the energy delivery system.

(b) PURPOSE.—The purpose of this section is to promote the timely completion of authorizations and environmental reviews under Federal law relating to construction, operation, or maintenance of energy delivery systems consistent with the public safety, energy efficiency, and socioeconomic values of—

(1) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(2) other Federal laws that further the purposes of that Act.

(c) INTEGRATED REVIEW PROCESS.—

(1) DESIGNATION OF LEAD AGENCY.—

(A) PRIMARILY RESPONSIBLE FEDERAL AGENCY.—In any case in which a single Federal agency has primary authority to issue an overall authorization for an energy delivery

system under Federal law (such as the Federal Energy Regulatory Commission with respect to interstate natural gas pipelines), that Federal agency shall be the lead agency in conducting any environmental review, preparing any environmental review document, and carrying out any other activity that—

(i) is required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(ii) relates to construction, operation, or maintenance of an energy delivery system.

(B) MULTIPLE RESPONSIBLE FEDERAL AGENCIES.—In any case in which no single Federal agency has primary authority to issue an overall authorization for an energy delivery system under Federal law, but more than 1 Federal or State agency has authority to issue an authorization for the energy delivery system under Federal law—

(i) the applicant may request that the Federal agencies with that authority designate a lead agency to conduct any environmental review, prepare any environmental review document, and carry out any other activity that—

(I) is required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(II) relates to construction, operation, or maintenance of an energy delivery system; and

(ii)(I) the Federal agencies shall jointly designate 1 of the Federal agencies as the lead agency, taking into account—

(aa) the extent of the involvement of each Federal agency in issuing the authorization for the energy delivery system; and

(bb) the expertise of each Federal agency concerning the energy delivery system; or

(II) if the Federal agencies do not make a joint designation under subclause (I) by the date that is 30 days after the date of the request by the applicant under clause (i), the Council on Environmental Quality established by title II of the National Environmental Policy Act of 1969 (42 U.S.C. 4341 et seq.) shall designate, not later than 45 days after the date of the request by the applicant under clause (i), 1 of the Federal agencies as the lead agency.

(2) FEDERAL AGENCY RESPONSIBILITIES.—

(A) SINGLE ENVIRONMENTAL REVIEW.—

(i) DUTIES OF LEAD AGENCY.—The lead agency shall—

(I) conduct any environmental review and prepare any environmental review document that—

(aa) is required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or other Federal law; and

(bb) relates to construction, operation, or maintenance of an energy delivery system;

(II) in any case in which an activity described in subclause (I) is carried out by the applicant or a third-party contractor, evaluate, and approve or complete, the activity; and

(III) communicate with other agencies, establish deadlines, and carry out any other activity required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(ii) DUTIES OF PARTICIPATING AGENCIES.—Each participating agency with respect to the energy delivery system shall—

(I)(aa) provide to the lead agency input that relates to the environmental review and other activities described in clause (i) and focuses on direct project impacts; and

(bb) submit data based on sound science necessary to substantiate that input; and

(II) in issuing the authorization for which the participating agency has authority, rely on the activities described in clause (i) carried out, approved, or completed by the lead agency for the energy delivery system.

(B) INTEGRATION OF FEDERAL ENVIRONMENTAL REVIEW AND AUTHORIZATION PROCESS.—

(i) IN GENERAL.—In consultation with each participating agency, the lead agency shall—

(I) develop and implement a single coordinated and timely process that provides such environmental review as is required under Federal law for construction, operation, or maintenance of an energy delivery system; and

(II) ensure, to the maximum extent practicable, the integration with that environmental review process of all relevant Federal, State, and local environmental protection requirements applicable to the energy delivery system.

(ii) ACTIVITIES TO BE INTEGRATED.—The integrated review process shall integrate—

(I) the preparation of an environmental impact statement, or, at the discretion of the lead agency, the preparation of an environmental assessment, if such a statement or assessment is required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(II) the conduct of any other review, analysis, opinion, or determination, and the issuance of any authorization, required under Federal law.

(iii) CONSIDERATION OF ALTERNATIVES.—

(I) PROPOSAL.—The lead agency shall ensure that the applicant has the opportunity to propose an alternative to a condition that a Federal agency seeks to impose on an authorization.

(II) CONSIDERATION.—The lead agency shall give special consideration to an alternative that would—

(aa) cost less to implement; or

(bb) result in improved energy values from the energy delivery system.

(C) DEADLINES.—

(i) ESTABLISHMENT BY LEAD AGENCY.—The lead agency shall establish deadlines for—

(I) completion of environmental reviews, environmental review documents, and other activities required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for construction, operation, or maintenance of an energy delivery system; and

(II) issuance of all authorizations required under Federal law for the energy delivery system.

(ii) COMPLIANCE BY PARTICIPATING AGENCIES.—

(I) IN GENERAL.—Each participating agency with respect to the energy delivery system shall comply with each deadline established under clause (i).

(II) EFFECT OF FAILURE TO COMPLY.—If a participating agency fails to comply with a deadline established under clause (i), the input of the participating agency with respect to the energy delivery system under subparagraph (A)(ii)—

(aa) shall be advisory; and

(bb) shall be taken into account at the discretion of the lead agency and only to the extent that taking the input into account does not delay issuance of an authorization for the energy delivery system.

(iii) MINIMIZATION OF DUPLICATION AND DELAYS.—The integrated review process shall seek to minimize—

(I) duplication of activities carried out by the lead agency and the participating agencies; and

(II) delays in decisionmaking by those agencies.

(D) COMMUNICATION BETWEEN AGENCIES.—

(i) DUTIES OF LEAD AGENCY.—

(I) IN GENERAL.—With respect to an application for an authorization for an energy delivery system, the lead agency shall—

(aa) identify each participating agency;

(bb) notify each participating agency of the development of the application and of the role of the lead agency;

(cc) request input by each participating agency concerning the application; and

(dd) enter into a memorandum of understanding with all participating agencies concerning the issues to be considered by the lead agency and the participating agencies in conducting the integrated review process with respect to the application.

(II) DEADLINE.—The lead agency shall carry out subclause (I) not later than—

(aa) if the lead agency is designated under paragraph (1)(A), 45 days after the earlier of the date on which the applicant requests that the lead agency carry out the activities described in subclause (I) or the date on which the applicant submits the application to the lead agency; or

(bb) if the lead agency is designated under paragraph (1)(B), 45 days after the date of the designation.

(i) DUTIES OF PARTICIPATING AGENCIES.—Unless otherwise required by law, each participating agency shall—

(I) communicate with the lead agency at the earliest practicable time concerning any potential issues relating to, or impediment to, the issuance of the authorization to the applicant;

(II) commit to early and continuous involvement and concurrence at key decision points as determined by the lead agency; and

(III) refrain from raising any additional issues with respect to an application after the date of execution of the memorandum of understanding concerning the application under clause (i)(I)(dd).

(3) PUBLIC PARTICIPATION.—

(A) IN GENERAL.—The lead agency, in conjunction with each State affected by an application for an authorization for an energy delivery system—

(i) shall provide for early environmental screening to identify and address any environmental concerns associated with the authorization for the energy delivery system; and

(ii) to the extent practicable, shall ensure public participation early in the integrated review process.

(B) PRESENTATION OF INFORMATION.—Under subparagraph (A)(ii), the lead agency shall ensure that the presentation of environmental information to the public is informative and understandable.

(4) DISPUTE RESOLUTION.—If the lead agency finds that an environmental concern relating to an authorization for an energy delivery system over which a participating agency has jurisdiction under Federal law has not been resolved, the lead agency, in consultation with the Council on Environmental Quality and the head of the participating agency, shall resolve the matter not later than 30 days after the date of the finding.

(d) DELEGATION FROM PARTICIPATING AGENCY TO LEAD AGENCY.—Notwithstanding any other provision of law, with the agreement of the lead agency, the head of any participating agency may delegate to the lead agency the authority to issue any authorization for an energy delivery system or a class of energy delivery systems.

(e) PARTICIPATION OF STATE AGENCIES.—A State agency that has jurisdiction under State law (which jurisdiction has not been preempted by Federal law) over siting, construction, or operation of energy delivery systems may elect to participate in an integrated review process under the terms and conditions established by the lead agency for all Federal agencies that participate in the integrated review process.

(f) FEDERAL DELEGATION TO STATES.—

(1) IN GENERAL.—At the request of a Governor of a State, and with the concurrence of an applicant, the lead agency may delegate to an appropriate State agency the authority to prepare an environmental impact statement or an environmental assessment relating to construction, operation, or maintenance of an energy delivery system if—

(A) such an environmental impact statement or environmental assessment is required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(B)(i) the energy delivery system is located entirely within the State; and

(ii) the State agency has sufficient expertise concerning energy delivery systems to prepare the environmental impact statement or environmental assessment;

(C) the responsible Federal official of the lead agency provides guidance and participates in the preparation of the environmental impact statement or environmental assessment by the State agency;

(D) the responsible Federal official independently evaluates any environmental impact statement or environmental assessment prepared by the State agency before the statement or assessment is approved; and

(E) the responsible Federal official—

(i) provides early notification to and solicits the views of any other affected State or any affected Federal land management entity of any action or alternative to the action that may have a significant impact on the State or the Federal land management entity; and

(ii) if the State agency disagrees with the assessment of the responsible Federal official with respect to an impact described in clause (i), prepares a written assessment of the impact for incorporation into the environmental impact statement or environmental assessment prepared by the State agency.

(2) EFFECT ON OTHER RESPONSIBILITIES AND STATEMENTS.—Nothing in paragraph (1)—

(A) relieves the responsible Federal official referred to in that paragraph of—

(i) any responsibility of the official for the scope, objectivity, or content of the environmental impact statement referred to in that paragraph; or

(ii) any other responsibility of the official under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); or

(B) affects the legal sufficiency of any environmental impact statement prepared by a State agency with less than statewide jurisdiction.

(g) FINANCIAL ASSISTANCE.—To ensure that the policies of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other laws that further the purposes of that Act are most effectively implemented, the lead agency may make funds available to the Governor of a State that assumes responsibility for environmental review that would otherwise be conducted by the lead agency.

(h) PREEMPTION.—Nothing in this section preempts any Federal or State law relating to siting, construction, or operation of energy delivery systems.

SA 3117. Mr. DODD (for himself and Mr. McCONNELL) proposed an amendment to the bill S. 565, to require States and localities to meet uniform and nondiscriminatory election technology and administration requirements applicable to Federal elections, to establish grant programs to provide assistance to States and localities to meet those requirements and to improve election technology and the administration of Federal elections, to establish the Election Administration

Commission, and for other purposes; as follows:

Amend the title to read as follows: "A bill to require States and localities to meet uniform and nondiscriminatory election technology and administration requirements applicable to Federal elections, to establish grant programs to provide assistance to States and localities to meet those requirements to improve election technology and the administration of Federal elections, to establish the Election Administration Commission, and for other purposes."

SA 3118. Mr. DODD (for himself and Mr. MCCONNELL) proposed an amendment to the bill H.R. 3295, to require States and localities to meet uniform and nondiscriminatory election technology and administration requirements applicable to Federal elections, to establish grant programs to provide assistance to States and localities to meet those requirements and to improve election technology and the administration of Federal elections, to establish the Election Administration Commission, and for other purposes; as follows:

Amend the title to read as follows: "A bill to require States and localities to meet uniform and nondiscriminatory election technology and administration requirements applicable to Federal elections, to establish grant programs to provide assistance to States and localities to meet those requirements and to improve election technology and the administration of Federal elections, to establish the Election Administration Commission, and for other purposes."

SA 3119. Mr. BINGAMAN (for Mr. ROCKEFELLER) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

On page 564, after line 2, insert the following:

"SEC. 1506. FEDERAL MINE INSPECTORS.

"In light of projected retirements of Federal mine inspectors and the need for additional personnel, the Secretary of Labor shall hire, train, and deploy such additional skilled mine inspectors (particularly inspectors with practical experience as a practical mining engineer) as necessary to ensure the availability of skilled and experienced individuals and to maintain the number of Federal mine inspectors at or above the levels authorized by law or established by regulation."

SA 3120. Mr. BINGAMAN (for Mr. LEVIN (for himself, Mr. DEWINE, and Ms. STABENOW)) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

At the end of title XVII, insert the following:

SEC. 17. STUDY OF NATURAL GAS AND OTHER ENERGY TRANSMISSION INFRASTRUCTURE ACROSS THE GREAT LAKES.

(a) DEFINITIONS.—In this section:

(1) GREAT LAKE.—The term "Great Lake" means Lake Erie, Lake Huron (including Lake Saint Clair), Lake Michigan, Lake Ontario (including the Saint Lawrence River from Lake Ontario to the 45th parallel of latitude), and Lake Superior.

(2) SECRETARY.—The term "Secretary" means the Secretary of Energy.

(b) STUDY.—

(1) IN GENERAL.—The Secretary, in consultation with representatives of appropriate Federal and State agencies, shall—

(A) conduct a study of—

(i) the location and extent of anticipated growth of natural gas and other energy transmission infrastructure proposed to be constructed across the Great Lakes; and

(ii) the environmental impacts of any natural gas or other energy transmission infrastructure proposed to be constructed across the Great Lakes; and

(B) make recommendations for minimizing the environmental impact of pipelines and other energy transmission infrastructure on the Great Lakes ecosystem.

(2) ADVISORY COMMITTEE.—Not later than 30 days after the date of enactment of this Act, the Secretary shall enter into an agreement with the National Academy of Sciences to establish an advisory committee to ensure that the study is complete, objective, and of good quality.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report that describes the findings and recommendations resulting from the study under subsection (b).

SA 3121. Mr. BINGAMAN (for Mr. SCHUMER) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

On page 408, line 8, strike "technologies." and insert "technologies; and

(3) the use of high temperature superconducting technology in projects to demonstrate the development of superconductors that enhance the reliability, operational flexibility, or power-carrying capability of electric transmission systems or increase the electrical or operational efficiency of electric energy generation, transmission, distribution and storage systems."

SA 3122. Mr. BINGAMAN (for Mr. SMITH of Oregon) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

On page 301, after line 22, insert the following:

"SEC. 930. STUDY OF ENERGY EFFICIENCY STANDARDS.

"The Secretary of Energy shall contract with the National Academy of Sciences for a study, to be completed within one year of enactment of this Act, to examine whether the goals of energy efficiency standards are best

served by measurement of energy consumed, and efficiency improvements, at the actual site of energy consumption, or through the full fuel cycle, beginning at the source of energy production. The Secretary shall submit the report to the Congress."

SA 3123. Mr. BINGAMAN (for Mr. DURBIN for himself and Ms. COLLINS, proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

On page 213, between lines 10 and 11, insert the following:

SEC. 8. CONSERVE BY BICYCLING PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Transportation shall establish a Conserve By Bicycling pilot program that shall provide for up to 10 geographically dispersed projects to encourage the use of bicycles in place of motor vehicles. Such projects shall use education and marketing to convert motor vehicle trips to bike trips, document project results and energy savings, and facilitate partnerships among entities in the fields of transportation, law enforcement, education, public health, environment, or energy. At least 20 percent of the cost of each project shall be provided from State or local sources. Not later than 2 years after implementation of the projects, the Secretary of Transportation shall submit a report to Congress on the results of the pilot program.

(b) NATIONAL ACADEMY STUDY.—The Secretary of Transportation shall contract with the National Academy of Sciences to conduct a study on the feasibility and benefits of converting motor vehicle trips to bicycle trips and to issue a report, not later than two years after enactment of this Act, on the findings of such study.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Transportation \$5,500,000, to remain available until expended, to carry out the pilot program and study pursuant to this sections.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. NELSON of Nebraska. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, April 11, 2002, at 2:30 p.m. to conduct an oversight hearing on "Proposals To Improve the Housing Voucher Program."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. NELSON of Nebraska. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Thursday, April 11, 2002 at 10:00 a.m. to hear testimony on Schemes, Scams and Cons, Part II: The IRS Strikes Back.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. NELSON of Nebraska. Mr. President, I ask unanimous consent that the

Committee on Government Affairs be authorized to meet on Thursday, April 11, 2002 at 9:00 a.m. to discuss legislation to establish a Department of National Homeland Security and a White House Office to combat terrorism.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. NELSON of Nebraska. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Thursday, April 11, 2002 at 3:00 p.m. to consider the nomination of Paul A. Quander, Jr. to be Director of the District of Columbia Offender Supervision, Defender, and Courts Services Agency.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. NELSON of Nebraska. Mr. President I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on Capacity to Care: In a World Living with Aids during the session of the Senate on Thursday, April 11, 2002 at 10:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. NELSON of Nebraska. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, April 11, 2002, at 10 a.m., in SD226.

Tentative Agenda

I. Nominations

Terrence L. O'Brien to the United States Court of Appeals for the Tenth Circuit;

Lance Africk to the United States District Court for the Eastern District of Louisiana;

Legrome Davis to the United States District Court for the Eastern District of Pennsylvania;

Mary Ann Solberg to be Deputy Director of the Office of National Drug Control Policy;

Scott Burns to be Deputy Director for State and Local Affairs, Office of National Drug Control Policy;

Barry Crane to be Deputy Director for Supply Reduction, Office of National Drug Control Policy;

John Robert Flores to be the Administrator of the Office of Juvenile Justice and Delinquency Prevention, Department of Justice; and

John Brown III to be Deputy Administrator of the Drug Enforcement Agency.

To be United States Attorney:

Jane J. Boyle for the Northern District of Texas;

James B. Comey for the Southern District of New York;

Thomas A. Marino for the Middle District of Pennsylvania;

Matthew D. Orwig for the Eastern District of Texas; and

Michael Taylor Shelby for the Southern District of Texas.

To be United States Marshal:

Warren Douglas Anderson for the District of South Dakota;

Patrick E. McDonald for the District of Idaho; and

James Joseph Parmley for the Northern District of New York.

II. Bills

S. 924, Providing Reliable Officers, Technology, Education, Community Prosecutors, and Training In Our Neighborhoods (PROTECTION) Act of 2001. [Biden/Specter];

S. 864, Anti-Atrocity Alien Deportation Act of 2001 [Leahy/Lieberman/Levin];

S. 2031, Intellectual Property Protection Restoration Act of 2002 [Leahy/Brownback]; and

S. 2010, Corporate and Criminal Fraud Accountability Act of 2002 [Leahy/Daschle/Durbin].

THE PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. NELSON of Nebraska. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a nominations hearing on Thursday, April 11, 2002 at 2:30 p.m. in Dirksen Room 226.

Panel I: The Honorable ARLEN SPECTER, United States Senator [R-PA]; the Honorable BOB SMITH, United States Senator [R-NH]; the Honorable PAUL WELLSTONE, United States Senator [D-MN]; the Honorable DIANNE FEINSTEIN, United States Senator [D-CA]; the Honorable BARBARA BOXER, United States Senator [D-CA]; the Honorable JUDD GREGG, United States Senator [R-NH]; the Honorable RUSSELL F. FEINGOLD, United States Senator [D-WI]; the Honorable MARK DAYTON, United States Senator [D-MN]; the Honorable JIM RAMSTAD, United States Representative [R-MN, 3rd Congressional District]; the Honorable THOMAS M. BARRETT, United States Representative [D-WI, 5th Congressional District]; and the Honorable MARK GREEN, United States Representative [R-WI, 8th Congressional District].

PANEL II: Jeffrey Howard for the United States Court of Appeals for the First Circuit; Percy Anderson for the United States District Court for the Central District of California; Michael M. Baylson for the United States District Court for the Eastern District of Pennsylvania; William C. Griesbach for the United States District Court for the Eastern District of Wisconsin; Joan E. Lancaster for the United States District Court for the District of Minnesota; Cynthia M. Rufe for the United States District Court for the Eastern District of Pennsylvania; and John F. Walter for the United States District Court for the Central District of California.

THE PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CONSUMER AFFAIRS, FOREIGN COMMERCE, AND TOURISM

Mr. NELSON of Nebraska. Mr. President, I ask unanimous consent that the

Subcommittee on Consumer Affairs, Foreign Commerce, and Tourism, of the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, April 11, 2002, at 9:30 a.m. on examining Enron: Electricity Market Manipulation and the Effect on the Western States.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PERSONNEL

Mr. NELSON of Nebraska. Mr. President, I ask unanimous consent that the Subcommittee on Personnel of the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, April 11, 2002, at 9:30 a.m. in open session to receive testimony on military personnel benefits in review of the Defense Authorization Request for Fiscal Year 2003.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON STRATEGIC

Mr. NELSON of Nebraska. Mr. President, I ask unanimous consent that the Subcommittee on Strategic of the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, April 11, 2002, at 2:30 p.m., in open and closed session to receive testimony on the intelligence, surveillance, and reconnaissance programs of the Department of the Defense in review of the Defense Authorization Request for Fiscal Year 2003.

The PRESIDING OFFICER. Without objection, it is so ordered.

VITIATION OF ACTION—S. 565

Mr. REID. Madam President, I ask consent that the passage of S. 565 be vitiated and the measure be returned to the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. REID. I ask consent that the Senate proceed to Executive session to consider Calendar No. 758; that the nomination be confirmed, the motion to reconsider be laid upon the table, the President be immediately notified of the Senate's action, any statements be printed in the RECORD, and the Senate return to legislative session without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination was considered and confirmed as follows:

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Robert Watson Cobb, of Maryland, to be Inspector General, National Aeronautics and Space Administration.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will return to legislative session.

COMMENDING UNIVERSITY OF MINNESOTA-DULUTH BULLDOGS

Mr. REID. Madam President, I ask consent that the Senate proceed to the consideration of S. Res. 236, submitted earlier today by Senators DAYTON and WELLSTONE.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 236) commending the University of Minnesota-Duluth Bulldogs for winning the 2002 NCAA Division I Women's Ice Hockey National Championship.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Madam President, I ask consent the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and any statements related to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 236) was agreed to.

The preamble was agreed to.

The resolution (S. Res. 236), with its preamble, reads as follows:

S. RES. 236

Whereas on March 24, 2002, the defending NCAA Women's Ice Hockey National Champion, the University of Minnesota-Duluth Bulldogs, won the National Championship for the second straight year;

Whereas Minnesota-Duluth defeated Brown University in the championship game by the score of 3-2, having previously defeated Niagara University in the semi-final by the same score;

Whereas sophomore Tricia Guest scored the unassisted game-winning goal in the third period, and assisted in the Bulldogs' opening goal in the first period;

Whereas during the 2001-2002 season, the Bulldogs won 24 games, while losing only 6, and tying 4;

Whereas forward Joanne Eustace and defenseman Larissa Luther were both selected to the 2002 All-Tournament team;

Whereas forward and team captain Maria Rooth led the Bulldogs in scoring the last 2 years, and was named to the Jofa Women's University Division Ice Hockey All-American first team, the only first team repeat from 2001;

Whereas Minnesota-Duluth Head Coach, Shannon Miller, after winning the National Championship in 2 consecutive years, was named a finalist for the 2002 NCAA Division I Coach of the Year; and

Whereas all of the team's players showed tremendous dedication throughout the season toward the goal of winning the National Championship: Now, therefore, be it

Resolved, That the Senate—

(1) commends the University of Minnesota-Duluth Women's Ice Hockey Team for winning the 2002 NCAA Division I Collegiate Ice Hockey National Championship;

(2) recognizes the achievements of all the team's players, coaches, and support staff, and invites them to the United States Capitol to be honored;

(3) requests that the President—

(A) recognize the achievements of the University of Minnesota-Duluth Women's Ice Hockey Team; and

(B) invite them to the White House for an appropriate ceremony honoring a national championship team; and

(4) directs the Secretary of the Senate to—

(A) make available enrolled copies of this Resolution to the University of Minnesota-Duluth for appropriate display; and

(B) transmit an enrolled copy of the Resolution to every coach and member of the 2002 NCAA Division I Women's Ice Hockey National Championship Team.

COMMENDING UNIVERSITY OF MINNESOTA GOLDEN GOPHERS DIVISION I MEN'S HOCKEY NATIONAL CHAMPIONSHIP

Mr. REID. I ask unanimous consent the Senate turn to the consideration of S. Res. 237, submitted earlier today by Senators DAYTON and WELLSTONE.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 237) commending the University of Minnesota Golden Gophers for winning the 2002 National Collegiate Athletic Association Division I Men's Hockey National Championship.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. I ask consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and any statements related thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 237) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 237

Whereas on April 6, 2002, the University of Minnesota Men's Hockey Team won the National Championship for the first time in 23 years;

Whereas Minnesota defeated the University of Maine in overtime in the championship game by the score of 4-3, having previously defeated the University of Michigan in the semifinal by the score of 3-2;

Whereas Grant Potulny, from North Dakota, the team's only non-Minnesotan, scored the winning goal in overtime and was named the tournament's Most Outstanding Player;

Whereas during the 2001-2002 season, the Golden Gophers won 32 games, while losing only 8, and tying 4;

Whereas senior defenseman Jordan Leopold was named the winner of the Hobey Baker Memorial Award, given annually to the college hockey Player of the Year, and was also named an All-American for the second consecutive year;

Whereas senior forward Johnny Pohl was also named to the All-American team, and led the NCAA Division I in scoring;

Whereas senior goalie Adam Hauser was named to the "Frozen Four" All-Tournament team, became the all-time Western Collegiate Hockey Association leader in victories, and established Minnesota records for most wins, shutouts, and saves;

Whereas Minnesota Head Coach Don Lucia, after winning the National Championship in just his third season at Minnesota, was named a finalist for the 2002 Spencer Penrose Award, which is presented to the NCAA Division I National Hockey Coach of the Year; and

Whereas all of the team's players showed tremendous dedication throughout the sea-

son toward the goal of winning the National Championship: Now, therefore, be it

Resolved, That the Senate—

(1) commends the University of Minnesota Men's Hockey Team for winning the 2002 NCAA Division I Collegiate Hockey National Championship;

(2) recognizes the achievements of all the team's players, coaches, and support staff, and invites them to the United States Capitol to be honored;

(3) requests that the President—

(A) recognize the achievements of the University of Minnesota Men's Hockey Team; and

(B) invite the team to the White House for an appropriate ceremony honoring a national championship team; and

(4) directs the Secretary of the Senate to—

(A) make available enrolled copies of this Resolution to the University of Minnesota for appropriate display; and

(B) transmit an enrolled copy of the Resolution to every coach and member of the 2002 NCAA Division I Men's Hockey National Championship Team.

COMMENDING UNIVERSITY OF MINNESOTA GOLDEN GOPHERS DIVISION I WRESTLING NATIONAL CHAMPIONSHIP

Mr. REID. I ask consent that the Senate proceed to the consideration of S. Res. 238, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 238) commending the University of Minnesota Golden Gophers for winning the 2002 NCAA Division I Wrestling National Championship.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. I ask consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 238) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 238

Whereas the University of Minnesota wrestling team successfully defended its 2001 national title by winning the 2002 National Collegiate Athletic Association championship on March 23, 2002, in Albany, New York;

Whereas the victory was the first back-to-back national championship in an intercollegiate athletic competition in University of Minnesota history since the Golden Gophers captured 2 consecutive national championship football titles in 1940 and 1941;

Whereas the University of Minnesota won the national crown with 126.5 points, over Iowa State (103 points), Oklahoma (101.5 points), Iowa (89 points) and Oklahoma State (82.5 points);

Whereas the University of Minnesota became the first Division I wrestling team since the 1995-96 season to go undefeated in dual meets and win the National Duals, conference and NCAA team titles in a single season and the first team to win these titles in consecutive seasons since the 1994-95 and 1995-96 seasons;

Whereas the Golden Gophers wrestling team has finished in the top 3 in the Nation in the last 6 years: placing third in 1997, being the runner up in 1998 and 1999; placing third in 2000; and winning the national title in 2001 and 2002;

Whereas the University of Minnesota wrestling team has now placed in the top 10 at the NCAA Championships 25 times in the history of the program;

Whereas Coach J. Robinson, as head coach of the University of Minnesota wrestling team, now has finished in the top 10 at the NCAA Championships 10 times during his 16-year tenure;

Whereas two members of the Minnesota wrestling team, Jared Lawrence and Luke Becker, each earned an individual national crown, marking the first time in school history that two Minnesota athletes were individual champions in a single NCAA sport in the same year;

Whereas Lawrence, at 149 pounds, and Becker, at 157 pounds, captured the 13th and 14th NCAA individual titles in school history, respectively;

Whereas Ryan Lewis, at 133 pounds, was the runner-up, Owen Elzen, at 197 pounds, finished in fourth place, Damion Hahn, at 184 pounds, finished in fifth place, Garrett Lowney, at heavyweight, finished in fifth place, and Chad Erikson, at 141 pounds, finished in seventh place;

Whereas seven University of Minnesota wrestlers, Chad Erikson, Jared Lawrence, Luke Becker, Damion Hahn, Owen Elzen, Ryan Lewis, and Garrett Lowney, earned All-American honors; and

Whereas the Golden Gophers have now had 68 wrestlers earn 111 All-American citations in the history of the varsity wrestling program at the University of Minnesota: Now, therefore, be it

Resolved, That the Senate—

(1) commends the Golden Gophers of the University of Minnesota for winning the 2002 National Collegiate Athletic Association Division I Wrestling National Championship;

(2) recognizes the achievements of all the team's members, coaches, and support staff, and invites them to the United States Capitol to be honored;

(3) requests that the President recognize the achievements of the University of Minnesota wrestling team and invite them to the White House for an appropriate ceremony honoring a national championship team; and

(4) directs the Secretary of the Senate to transmit a copy of this resolution to the President of the University of Minnesota.

Mr. REID. I would say, Madam President, those Minnesotans know how to play hockey and wrestle.

ORDERS FOR FRIDAY, APRIL 12, 2002

Mr. REID. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 10:30 a.m. tomorrow, April 12; that following the prayer and the pledge, the Journal of proceedings be deemed approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day; and there be a period of morning business until 11:30, with Senators permitted to speak for up to 10 minutes each, with time equally divided between the two leaders or their designees.

Madam President, I also ask unanimous consent that Senator LANDRIEU be recognized for up to 30 minutes during that 1 hour of time.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. REID. Madam President, at 11:30 a.m. tomorrow, the Senate will begin consideration of the border security bill. There will be no rollcall votes on Friday.

ORDER FOR ADJOURNMENT

Mr. REID. Madam President, if there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order, following the remarks of Senator MCCONNELL and Senator VOINOVICH, and the RECORD remain open today until 6:40 p.m. for the introduction of legislation by Senator GRASSLEY.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCONNELL. Madam President, are we in morning business?

The PRESIDING OFFICER. We are.

PACE OF JUDICIAL CONFIRMATIONS: A HISTORICAL COMPARISON

Mr. MCCONNELL. Madam President, my friends on the other side of the aisle have defended the slow pace of the judicial confirmation process by saying their treatment of President Bush's nominees compares favorably with precedents. I had the Congressional Research Service look into this, and their research showed this is clearly not the case. This Congress's treatment of President Bush's judicial nominees compares quite poorly, at all stages of the confirmation process, with the treatment that prior Congresses afforded the judicial nominees of President Bush's four predecessors during their first Congress.

It has done a poor job with respect to confirming both district and appellate court nominees, but it has been particularly bad with regard to circuit court nominees, which is what I am going to talk about tonight.

From Jimmy Carter through Bill Clinton, over 90 percent of the circuit court nominees received a Judiciary Committee hearing during the President's first Congress. This is illustrated by this chart. During President Carter's term, 100 percent of his circuit court nominees received a hearing during his first Congress. Under President Reagan, 95 percent—19 out of 20 circuit court nominees—received a hearing during his first Congress. Under the first President Bush, 95.7 percent of his nominees for the circuit courts—22 out of 23—received a hearing during the first Bush's Presidency. During President Clinton's first Congress, 91 per-

cent, or 20 of 22 circuit court nominees received a hearing during the first Congress.

Now we are in the second session of the first Congress under President George W. Bush, and only 10 of 29 circuit court nominees have even received a hearing, for a percentage of 34.5 percent.

What is going on here in the Senate with regard to even giving a hearing to circuit court judicial nominees is simply without precedent.

No President has been treated so poorly in recent memory—not even a hearing. Ten of the 29 circuit court nominees of President George W. Bush have not even received a hearing. By contrast, only about one-third of President Bush's circuit court nominees have received a hearing.

With respect to receiving a Judiciary Committee vote, looking at it a different way, from Jimmy Carter through Bill Clinton at least 86 percent of circuit court nominees received a Judiciary Committee vote.

During President Carter's first Congress, 100 percent of his nominees for the circuit court received a vote in committee.

During President Reagan's first Congress, 95 percent of his circuit court nominees—19 out of 20—received a vote of the committee.

During the first President Bush's first Congress, 22 of 23 received a committee vote. That is 95.7 percent.

During President Bill Clinton's first Congress, 86.4 percent of his circuit court nominees—19 out of 22—received a Judiciary Committee vote during his first 2 years. Of course, those were years during which his party also controlled the Senate.

During the first 2 years of President George W. Bush, only 27.6 percent—or 8 out of 29—of the nominees for circuit courts received a Judiciary Committee vote—very shabby treatment and certainly unprecedented in recent times.

With respect to Senate floor votes, at least 86 percent of circuit court nominees from the administration of President Jimmy Carter through President Bill Clinton got a full Senate vote.

Looking at President Carter's first 2 years, 100 percent of his nominees for the circuit court received a Senate vote.

Looking at President Reagan's first 2 years, 95 percent of his nominees received a Senate vote.

Looking at the first President Bush circuit court nominees during the first 2 years, 95.7—or 22 out of 23—got a full Senate vote. Of course, that was when the Senate was controlled by the opposition party under the first President Bush.

President Clinton in his first 2 years in office, 86.4 percent—or 19 out of 22—of the circuit court nominees got a full Senate vote. Of course that was during a period where President Clinton's own party controlled the Senate.

Looking at the first 2 years of President George W. Bush, to this point,

only 24.1 percent of the nominees to the circuit courts have received a full Senate vote—only 7 of 29.

This is really unprecedented, shabby treatment of President Bush's circuit court nominees.

The final chart shows comprehensively how poorly we are doing right now at all stages of the process in moving circuit court nominees.

Looking at it in terms of hearings, committee votes, or full Senate votes, during a President's first 2 years in office, the picture tells the story.

Under President Carter, 100 percent received both a hearing, a committee vote, and a full Senate vote during his first 2 years.

During President Reagan, 95 percent of his nominees received a hearing, a committee vote, and a full Senate vote.

The first President Bush, 95.7 percent of his nominees got all three—a hearing, a committee vote, and a full Senate vote.

President Clinton: 91 percent of his nominees in his first 2 years—again, remembering that President Clinton's party controlled the Senate his first 2 years—91 percent received a hearing in committee, and 86.4 percent received a vote both in committee and in the full Senate.

Then, looking at President George W. Bush, only 34.5 percent of his nominees for circuit court—a mere 10 out of 29—have even been given a hearing in committee, only 27.6 percent have been given votes in committee, and only 24 percent—a mere 7 out of 29—have been given votes in the full Senate.

This is a very poor record that I think begins to become a national issue. At the rate this is going, I think it will be discussed all across our country in the course of the Senate elections this fall.

It is pretty clear that we are not doing a very good job of filling vacancies, particularly the 19 percent of vacancies that exist at the circuit court level, and 50 percent of the vacancies that exist in my own State of Kentucky.

We did have a markup for a lone circuit court nominee this morning, and we had a confirmation hearing this afternoon for another lone circuit court nominee. I suppose that is a step in the right direction. Some progress is certainly, of course, better than none. But if we are going to address the major vacancy problem on the appellate courts, we must have more than one circuit court nominee per confirmation hearing, and we must have more than one circuit court nominee at a markup.

Furthermore, we are going to have to have regular hearings and regular markups for circuit court nominees. Before today, for example, it had been 4 weeks since we had a markup. Thus, in the 2 weeks prior to recess, we had only one markup with only one circuit court nominee on the agenda. And that nominee was, in fact, defeated on a party-line vote. When Senator HATCH

was chairman, 10 times he held hearings with more than one circuit court nominee on the agenda. With the circuit court vacancy rate approaching 20 percent, this is something we should be doing now as well.

In sum, we need to do a better job in the confirmation process, particularly with respect to circuit court nominees.

These historical precedents give us a reasonable goal to which to aspire, and we need to redouble our efforts to meet past practices.

I might say in closing that we have a particular crisis in the Sixth Judicial Circuit, which includes the States of Michigan, Ohio, Kentucky, and Tennessee. The Sixth Circuit is 50-percent vacant. Eight out of 16 seats are not filled—not because there haven't been nominations. Seven of the eight nominations are before the Senate Judiciary Committee. A couple of them have been there for almost a year. No hearings have been held. We have a judicial emergency in the Sixth Circuit.

I think this needs to be talked about. Regretfully, our record is quite sorry. We have some months left to be in session. Hopefully, this will improve as the weeks roll along.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. VOINOVICH. Madam President, I ask unanimous consent the order for the quorum call be rescinded and that I be recognized to speak in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

PIPELINE AND TRANSMISSION STREAMLINING

Mr. VOINOVICH. Madam President, I would like to spend a few minutes today talking about an amendment that I filed on the energy bill, amendment No. 3116. It is titled the "Integrated Review of Energy Delivery Systems Act of 2002."

This amendment, which Senator LANDRIEU has cosponsored, will streamline the siting process for energy pipelines and transmission lines.

As my colleagues know, one of the biggest challenges we face in ensuring that we have a consistent energy policy is ensuring we get energy to where it is needed. One of the problems we have had in previous winters has been the inability of energy supply to meet the demand solely because of bottlenecks in the distribution system.

Unless we address the situation, each winter places such as the northeastern part of the United States will continue to face high spikes in prices because their electric power grid and their pipeline system are both severely overtaxed. Removing this bottleneck will help stem huge potential problems down the road.

The Presiding Officer knows that one of the concerns we had last year was

whether or not we would be able to get electricity into New York, into the Presiding Officer's part of the country, because of the issue of transmission lines. We were fortunate last summer was not that hot and the demand was not up, so there were not any brown-outs or blackouts. But it is very important we move forward with siting these transmission lines so we can get power into the areas that need them.

The amendment Senator LANDRIEU and I have written would require all Federal agencies to coordinate the environmental reviews of energy pipelines and transmission lines so that the reviews take place simultaneously and a decision can be reached quickly on whether to move forward with the projects.

This amendment does not change underlying environmental statutes, nor does it change the environmental standards used for approving these projects. All current and future environmental laws are not changed by the amendment. Let me repeat that: Current and future environmental laws are not changed.

This amendment is based on a bill I introduced last year, S. 1580, the Environmental Streamlining of Energy Facilities Act of 2001, which would have applied to all energy facilities.

The idea for this amendment is from the environmental streamlining provisions of the highway bill, TEA-21. In that legislation, an amendment offered by Senators WYDEN, GRAHAM, and BOB SMITH required the Transportation Department to coordinate all environmental reviews for highway projects so that the reviews would take place at the same time, saving years on major highway projects.

What we are trying to do today is apply this same concept to the building of pipelines and transmission lines. Today we are facing a shortage of pipelines, and it is becoming more difficult every day to site transmission lines. While this amendment would not change the laws of eminent domain or the environmental standards, what it will do is help expedite the review process.

I would like to briefly outline the provisions of my amendment.

First, we designate one lead agency to coordinate the review process. To eliminate the duplication efforts by agencies with oversight for the construction, operation, and maintenance of pipelines and transmission lines, a single Federal agency would be identified to coordinate all required paperwork and research for the environmental review of a proposed pipeline or transmission system.

The agencies involved in this process would include the Environmental Protection Agency, the Department of Energy, FERC, the Army Corps of Engineers, and the Department of Transportation's Office of Pipeline Safety.

Agencies with partial oversight for a project would provide information from their area of expertise, while the

lead agency would be responsible for establishing the deadlines, facilitating communication between the agencies, and defining the role of participating agencies during the environmental review process.

The lead agency, along with the Governor of the State where the application for the facility has been made, would work together to provide early notification to the public in order to identify and address any environmental concerns associated with the proposed system.

If there appears to be an environmental concern related to the permitting, the Council on Environmental Quality, in conjunction with the heads of the lead agency and participating agencies, would work together to resolve the matter within 30 days.

The problem is, when differences of opinion arise, it can take forever for these differences to be resolved. What we are suggesting in this legislation is that they would be brought to the Council on Environmental Quality, and they would sit down with the lead agency and participating agencies, and they would work together to get a resolution within 30 days.

The amendment directs coordination between the Federal, State, and local governments on particular projects. After a lead agency is appointed, it would be required to coordinate the environmental review process with input from Federal, State, and local governments. This includes the preparation of environmental impact statements, review analysis, opinions, determinations, or authorizations required under Federal law.

The amendment also allows for Federal delegation to the States. At the request of a Governor, and with the agreement of the applicant, a State agency may assume the role of lead agency. The Federal agency would delegate to the State agency the authority to prepare the Federal environmental impact statement or other environmental assessment following the procedures for a Federal lead agency.

Where there is a delegation of authority to the State, the lead agency continues to provide guidance and participation in preparing the final version of the environmental impact statement or environmental assessment. The lead Federal agency must also provide an independent evaluation of the statement or assessment prior to its approval.

Finally, the standard of review under State and Federal laws relating to the siting or construction or operation of a pipeline or transmission line would not be preempted, and the lead Federal agency is authorized to provide funding to the State when they assume the Federal responsibility.

It is vital that we act on the problem of expediting the siting of pipelines and transmission lines. This is a problem that plagues the entire country, including my home State of Ohio. However, in my view, the region which probably needs this provision the most is the Northeast.

According to a study by ISO New England Corporation, the nonprofit operator of New England's power grid has said that New England is increasing its natural gas demand from 16 percent in 1999, to a projected 45-percent demand in 2005. Unfortunately, they lack the local pipelines to distribute that gas to their markets.

The study says that there is no worry about any blackouts, unless nothing has changed one year from now. Three of the changes they need are: New gas-fired plants should be allowed to develop the ability to burn oil as a backup. The second is the regional pipeline system has to be expanded. And third, new compressors need to be added to existing pipelines to increase delivery capacity. So there is a genuine need there to move forward with providing pipelines so they can get gas into the Northeast, s ISO stated in its report issued in January of last year.

The chairman of the ISO New England, Mr. William Berry, said:

The long and complicated federal permitting process for building new interstate pipelines is a greater obstacle than the technical construction work.

The amendment Senator LANDRIEU and I introduced will help speed up, as Mr. Berry calls it, "the long and complicated federal permitting process," and it will do so without jeopardizing any environmental protections and without changing any of our current environmental laws.

This amendment is supported by the American Gas Association, the American Chemistry Council, the Edison Electric Institute, the Interstate Natural Gas Association of America, the Association of Oil Pipelines, and the National Association of Manufacturers.

This is a commonsense approach to requiring our Federal agencies to work together to get the permitting decisions considered at the same time. According to the Interstate Natural Gas Association of America, the United States will need 49,500 miles of new natural gas transmission lines between now and 2015. That is just to keep up with the large projected increase in demand for natural gas. It is also projected that our demand for natural gas will increase by 50 percent by the year 2020.

We need to act today to ensure that our energy can be delivered to American homes tomorrow. I hope this amendment will be accepted and we

can move forward with providing both industry and American consumers the confidence that the Federal Government will not be an obstacle to the delivery of energy and that this can be done without changing or undermining our environmental laws.

I yield the floor.

ADJOURNMENT UNTIL 10:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 10:30 a.m. on Friday, April 12, 2002.

Thereupon, the Senate, at 6:32 p.m., adjourned until Friday, April 12, 2002, at 10:30 a.m.

NOMINATIONS

Executive nominations received by the Senate April 11, 2002:

POSTAL RATE COMMISSION

TONY HAMMOND, OF VIRGINIA, TO BE A COMMISSIONER OF THE POSTAL RATE COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING OCTOBER 14, 2004, VICE EDWARD JAY GLEIMAN, RESIGNED.

DEPARTMENT OF JUSTICE

STEVEN M. BISKUPIC, OF WISCONSIN, TO BE UNITED STATES ATTORNEY FOR THE EASTERN DISTRICT OF WISCONSIN FOR THE TERM OF FOUR YEARS, VICE THOMAS PAUL SCHNEIDER, RESIGNED.

JAN PAUL MILLER, OF ILLINOIS, TO BE UNITED STATES ATTORNEY FOR THE CENTRAL DISTRICT OF ILLINOIS FOR THE TERM OF FOUR YEARS, VICE FRANCES CUTHBERT HULIN, RESIGNED.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY 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. LEON J. LAPORTE, 0000

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. GARY H. HUGHEY, 0000

THE FOLLOWING NAMED LIMITED DUTY OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

MICHAEL J. BISSENETTE, 0000
MARK A. CLESTER, 0000
DANIEL J. MCLEAN, 0000

CONFIRMATION

Executive nomination confirmed by the Senate April 11, 2002:

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

ROBERT WATSON COBB, OF MARYLAND, TO BE INSPECTOR GENERAL, NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

EXTENSIONS OF REMARKS

CONGRATULATIONS, TED AND
LOIS WELLINGTON, ON 65TH
WEDDING ANNIVERSARY

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. SCHIFF Mr. Speaker, I rise today to honor two outstanding citizens of California's 27th Congressional District. Ted and Lois Wellington, life long residents of Burbank, California, celebrated their 65th Wedding Anniversary on March 27, 2002. Over their lifetime, both Lois and Ted have devoted themselves to the well being of the greater Burbank community.

Ted and Lois both attended Burbank public schools while growing up and met each other while attending Burbank High School. But it wasn't until Ted became the accountant in Lois's father's mechanic shop that they began dating. They were married on March 27, 1937 and remained in Burbank to raise their family. They raised two children in Burbank—Barbara "Dee" Erman of Placentia and Frederick "Rick" Wellington of San Gabriel. They are extremely proud of their two children and are also blessed to have four grandchildren: Michael, Lawrence, Edward, and Patrick, and two great grandchildren: Sean and Haley.

Over the years Ted has worked for Fox Studios, Lockheed, and he concluded his accounting career in the Los Angeles County Tax Assessor's office. Lois, while working for the City of Burbank Department of Water and Power, is one of the original founders of the Burbank Public Employees Association.

Lois's involvement in the community is not only limited to Burbank, she has served as the President of the Retired Public Employees Association, as the President of the Congress of California Seniors, as an officer for the International Seniors Council Association and as the Chair of the President's Council of the National Council of Senior Citizens. She is currently a Senator of the Silver Haired Congress.

Not to be outdone, Ted has been active in local, county, state, and national politics throughout his life. Locally he has been persistent in his attempts to attract young people to politics. And when Ted isn't reading, he is tending to his vegetable garden, which some say produces the best tomatoes in Burbank.

I would like all Members of the United States House of Representatives to join me in congratulating Ted and Lois Wellington on their 65th Wedding Anniversary. They have truly shown devotion not only to each other but to their family and community as well.

BEAR RIVER MIGRATORY BIRD
REFUGE SETTLEMENT ACT OF 2002

SPEECH OF

HON. JIM MATHESON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 9, 2002

Mr. MATHESON. Mr. Speaker, rise today to give my whole-hearted endorsement and support for H.R. 3958, the Bear River Migratory Bird Refuge Settlement Act.

This bill provides more than just a mere settlement between the federal government and the State of Utah, it is a model of how state and federal interests can work together in order to protect our shared environment.

The Bear River Refuge is an ecological treasure. Surrounded by a desert and a brackish marsh, the Bear River is truly an oasis for thousands of birds. In 1843, explorer John C. Fremont visited the site and said that the sounds of waterfowl were like "a thunder, and the whole scene was animated with waterfowl."

The refuge, however, is threatened. In 1983 the Great Salt Lake breached its banks and flooded the fragile ecosystem of the refuge. The pristine waters became contaminated; microbes, plants, and animals were all put at risk.

The refuge is now on its way to recovery. There has been a concerted effort by the federal government and the state to remediate the damage caused and return the refuge to its prior condition.

That job has been complicated, not by the forces of nature but by the anachronistic ambiguities of lines of ownership between federal and state holdings. The lack of a meander line survey of the land has led to uncertainty of ownership within the refuge.

State and federal agencies are unsure of their jurisdiction, and that uncertainty has stymied the important environmental work that needs to be completed.

This \$15 million agreement would invest much needed resources into the continued protection of the refuge—\$10 million would be provided into a wetlands protection account. The remaining \$5 million will be used for development, improvement, and expansion of a trail system throughout the refuge.

This is a good deal for the United States, a great agreement for Utah, and important step in preserving a fragile ecosystem.

IMPORTANCE OF ORGAN
DONATION

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. BILIRAKIS. Mr. Speaker, after September 11th, Americans proved once again that they are the most compassionate and

generous people in the world through their financial generosity to the victims of the tragedy. Unfortunately, organ donors—Americans who sacrifice for others—are often overlooked. Organ transplantation is a unique medical procedure, since it relies on the kindness and compassion of others—often strangers—to save lives. Despite the generosity of thousands of donors, however, the supply of organs still falls short of the need.

Currently, there is a nationwide shortage of available and suitable organs for patients needing a transplant. Nearly 75,000 people are currently waiting to receive a transplant, and every 14 minutes another name is added to the list. In the last decade alone, the waiting list has grown by over 300 percent. Because of low donor rates, thousands of people die each year for lack of suitable organs.

Through his tragic death, the grandson of one of my constituents was able to give life and hope to many others. Corey had been involved with motorcycles since he was a small boy. He was riding at a motorcycle track, like he had done many times before, practicing with his new motorcycle. The cycle over-throttled and crashed into his best friend, who was riding a motorcycle in the opposite direction. Corey suffered immediate brain swelling and never recovered. But fortunately for others, Corey's parents chose to donate his organs and give others the gift of life. I would like to personally thank them for their gift and commend their great sacrifice in their own time of mourning.

Through a gracious letter from the donor services organization, Corey's family was able to learn how his gift was able to touch the lives of so many others. His heart went to a young 14-year-old in Alabama, who required a transplant due to a heart defect from birth. Corey's liver went to a 67-year-old mother from Virginia, and his pancreas to a 49-year-old mother of two from Tennessee.

Donation of a person's organs is a profoundly selfless act that should be respected and acknowledged. Out of Corey's donation, many lives were touched and many people now have hope that they might not have had otherwise. I would encourage all Americans to follow Corey's example and register to donate their organs so that others may live.

HONORING ACHIEVEMENTS AND
BIRTHDAY OF CESAR CHAVEZ

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. SCHIFF. Mr. Speaker, I rise today to honor the achievements and birthday this March 31st of the late Cesar Chavez, a true pioneer for workers and communities who rose to become one of our nation's—and world's—greatest advocates of nonviolent social change.

Cesar Chavez is best remembered for founding and leading the first successful farm

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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

workers' union and becoming the president of the United Farm Workers of America. His tremendous efforts—and those who worked with him—improved the lives of tens of thousands of workers and families, and inspired millions of people from all walks of life around our nation and world.

Born on a small Arizona farm on March 31, 1927, Cesar Chavez began his life as a farm worker in the field at age 10. He served in the United States Navy during World War II.

With the strength of family and the unity of fellow farm workers, Cesar Chavez became an organizer with the Community Service Organization, a civic group of Mexican-Americans, in the early 1950s. Soon thereafter, he moved with his wife, Helen, and eight children to California's Central Valley where he founded the National Farm Workers Association. With his young children by his side, Cesar would visit California farm communities to bring public light to the substandard working conditions and lack of sufficient pay and benefits of thousands of Latino migrant workers who worked long hours on farms. Chavez led peaceful boycotts to bring national attention to the fight for equality and justice for migrant farm workers. His passionate leadership brought together a remarkable alliance of students, unions, minorities, churches and others to fight for their fellow men, women, and children working in the agricultural sector.

I was proud to be a member of the California State Senate in 2000 and vote to have the State of California recognize Cesar Chavez's birthday as a day to remember his good work and to re-ignite our personal and social passion for continually improving the conditions of workers and communities across our nation and world.

So, Mr. Speaker, today I ask all Members of the United States House of Representatives to pause and honor a great man, Cesar Chavez, and the great cause he helped lead of advancing fairness, justice, and the improvement of the living and working conditions of our fellow human beings.

H.R. 3848, WASHINGTON COUNTY, UTAH RECREATIONAL AND VISITOR FACILITIES

SPEECH OF

HON. JIM MATHESON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 9, 2002

Mr. MATHESON.

Mr. Speaker, I rise today to lend my voice in support of this important legislation.

Washington County, Utah is one of the fastest growing counties not only in Utah, but in the United States. Within the last ten years the population of Washington County has grown by more than 80 percent. The City of St. George is fast becoming one of America's premier retirement and vacation gateway communities in the country.

With this growth come two very basic needs. First, all cities, regardless of size, geography, lay out, structure, or economy, need water. Nowhere is this need felt more than in the red rock desert of southwestern Utah.

Secondly, vibrant cities need a place for people to recreate. They need areas where families can gather, where picnics can be

held, where activities can be organized, and communities can come together.

This legislation will help to do both. The bill authorizes \$2.5 million for the construction and maintenance of the Sand Hollow Recreational Area. This will help provide the needed resources to allow for the continued water and recreational resources of Washington County.

As a child, I spent many days in the area around Sand Hollow. It is a magnificent area, and a place that will only be enhanced by this authorization.

GREATEST WINTER OLYMPICS EVER

SPEECH OF

HON. JIM MATHESON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 9, 2002

Mr. MATHESON. Mr. Speaker, it is with great pleasure that I rise today to congratulate the people of Salt Lake City and the State of Utah, as well as athletes from around the world for a successful 19th Winter Olympics. I express my appreciation for the hard work by the thousands of volunteers of what has been described as the world's greatest Winter Olympics ever.

The Games showed how as Americans, we have not given up, but have rallied around our national—and international—banners. Over 27,000 people served as volunteers during the games. Volunteers made up almost the entire cast of the opening and closing ceremony performances. Doctors, nurses, businessmen, housewives, and even teenagers worked for 17 straight days to make sure this event was one that no one would ever forget.

Mr. Speaker, I hope that as Members of this body watched the Games on television that they too saw what I saw: People from throughout the world coming together to celebrate the spirit of fair competition and sport. I appreciate the work of the Congress and the President to ensure that the games ran smoothly and securely. It is my hope that the Salt Lake Olympic Games will be an example for the world of how to host a large, safe, secure, and successful international event.

RECOGNIZING THE IMPORTANCE OF THE ELLIS ISLAND MEDAL OF HONOR

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mrs. MALONEY of New York. Mr. Speaker, I rise today in support of H. Res. 377 and to acknowledge the importance of the Ellis Island Medal of Honor, an award established by the National Ethnic Coalition of Organizations to applaud individuals of various ethnic groups for their contributions to the United States.

The Ellis Island Medal of Honor organization is a member of the National Ethnic Coalition of Organizations, the largest organization of its kind in the United States, representing over 5 million family members and serving as a uniting force for 275 organizations in the fields of ethnic heritage, culture, and religion. The com-

mitments of this organization include the preservation of cultural diversity, the promotion of equality, the battle for justice, and the peace-keeper among all peoples.

The Ellis Island Medal of Honor serves to acknowledge individuals whom have accomplished personal achievements while promoting their particular heritage. The award is named in honor of the persistence of 12,000,000 immigrants as they entered a new world to pursue freedom and economic opportunity. This award honors the commitments of peoples seeking to preserve their heritage in a diverse nation.

The Ellis Island Medal of Honor is important in that it acknowledges the contributors of our great nation.

Since the Ellis Island Medal of Honor was established in 1986, over 1,500 individuals from many different ethnic groups have received the award, including over 5,000 individuals whom are nominated each year. I was honored to receive the Ellis Island Medal of Honor and I greatly respect the achievements of the other recipients of this award.

At the 2002 Ellis Island Medal of Honor ceremony, contributors to the relief and recovery efforts of September 11 will be honored. These honorees and other contributors to the United States will rightly be recognized under the Ellis Island Medal of Honor for their achievements and dedication to their country.

TOM JOYNER MORNING SHOW

HON. EARL F. HILLIARD

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. HILLIARD. Mr. Speaker, I rise to pay tribute to the award winning syndicated radio talk show, "The Tom Joyner Morning Show," and Congresswoman CARRIE MEEK for a job well done in making sure that everyone was included in the 2000 Census count.

More than one million people in the African American community were counted who would not have been counted, but for the efforts of this radio program. I also wish to thank Mr. Joyner, his team, and Kweisi Mfume for their efforts in turning out the vote in the November 2000 Election. Their numerous presentations during this critical time on a continuing basis were outstanding!

Each morning the program was informative, motivational and highly successful in achieving its goal. Because of this program, the percentage of African-American votes was greater than that of Whites and other groups of the voting age population in the state of Florida and in most Southern states.

The group's impact was so tremendous that it served as a catalyst for motivating African-Americans across this country to register to vote and participate in the Census count. This newfound sense of empowerment increased African-American interest in social and political affairs; increased their social, financial and political wealth; and resulted in their becoming better citizens.

Mr. Joyner has been a creative trailblazer and by taking the show on the road he has inspired, motivated, educated and informed America. In addition, he has brought his family into millions of households in America. By actively participating in the work of "The Tom

Joyner Foundation" which is an instrument to give back to the community, he has given scholarships to help needy students at Historically Black Colleges and Universities (HBCU's) and strengthened the African-American concept of parents and children cooperating together to build a greater society.

This is just one of the many programs which has involved his talented and creative efforts. His weekly Thursday Morning Moms highlights the struggles of African-American women rising to the highest level of family. His weekly tribute to Real Fathers Real Men; his feature of Little Known Black History Facts; his feature of Christmas Wish List; and his feature of Celebrity Interviews continue to inspire, enlighten and motivate African-Americans to be proud of the past, achieve in the present and prepare for the future.

Mr. Joyner's leadership on issues which affect African-Americans on a daily basis is superb and outstanding. His "fly jocking" across America to various cities and states not only increased the awareness of issues of interests to the African-American community, but motivated them to take action. He earned this "fly jocking" title through his dedication to serve radio audiences in Dallas, Texas and Chicago, Illinois. Both markets recognized his impressive talent and wanted him at the same time. Before expanding his presence into 120 markets across the country, Tom flew from Dallas to Chicago every day for seven years.

Tom's actions are commendable and very much appreciated. The other super stars, i.e., J. Anthony Brown, Sybil Wilkes, Miss Dupree, Myra J., Tavis Smiley, and Donna Richardson also inform and motivate the public. The Tom Joyner Morning Show is truly inspirational.

Mr. Joyner and his morning crew have received many awards, which reflect their skills, talents and contributions specifically to African-Americans, and generally to all Americans.

Lastly and most importantly, I would like to share a piece of Tom Joyner's personal history.

Born to Frances and Hercules Lionel Joyner of Tuskegee, Alabama, Tom attended elementary school at the Chambliss Children's House, which was a laboratory school located on the grounds of Tuskegee Institute. He went on to enroll at Tuskegee Institute High School where he received his educational training under the direction of Mrs. Alberta Ritchie, the mother of famous singer and songwriter Lionel Ritchie.

During his matriculation at Tuskegee Institute, Tom played records in the college cafeteria after basketball and football games. He further expressed his love for music and entertainment as a member of a local singing group, The Commodores. After performing with the group for two years, Tom asked his parents' permission to leave school and tour with The Commodores. His parents refused to allow him to drop out of College and follow the group, but instead, they strongly encouraged him to finish his education at Tuskegee Institute.

Upon graduation in 1971, Tom decided to pursue his dream as a radio announcer. His mission was to change the face of Black radio into an advocacy medium, with particular interests in broadening the awareness of HBCU's and increasing voter registration.

Tom is married to fitness expert and trainer Donna Richardson. He is the father of two

sons—Thomas Joyner, Jr., the CEO of The Tom Joyner Foundation and Oscar Joyner, Director of Marketing for the foundation.

Tom's efforts and awards cannot go unnoticed and must be recorded in history. Therefore, this insertion in the CONGRESSIONAL RECORD is made so that Tom Joyner's efforts and all of his positive actions and "solid gold programming" will be engrossed and embedded in the history of this country.

A TRIBUTE TO ALFRED E. MANN

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. SCHIFF. Mr. Speaker, it is an honor to rise today and honor Alfred E. Mann, a great philanthropist in the Southern California community and famed national bio-medical researcher. He has dedicated his life to his family, his church, and to the search for cures to the world's most devastating diseases and afflictions.

Alfred Mann was born in Portland, Oregon in 1925 and has been a resident of Los Angeles, California since 1946. He attended the University of California, Los Angeles and has received honorary doctorate degrees from the University of Southern California and The John Hopkins University.

He has earned his reputation as a biomedical pioneer because of his outstanding accomplishments throughout his professional life. As the Chairman and co-CEO of Advanced Bionics Corporation, he manufactured a developed advanced cochlear implants for the restoration of hearing and is currently developing a number of neurostimulation systems which may prove to be beneficial in treating those who face paralysis and any number of neurological disorders. He is also responsible for the manufacturing of continuous glucose monitoring systems primarily used for the treatment of diabetes and for the manufacture of hospital intravenous pumps.

Mr. Mann has made a lifelong commitment to philanthropy. His countless number of charitable donations has made a lasting impact on our nation. In fact, each year, his name can be found on the list of the ten most philanthropic minded individuals. Two of his largest donations, 100 million to the University of Southern California and the promise of 100 million to the University of California, Los Angeles, will help shape the face of current and future research at both of these institutions.

Also, as the founder of two medical research foundations—the Alfred Mann Foundation and the Alfred Mann Institute at the University of Southern California—Alfred Mann has ensured that the biomedical community will be able to engage in the lasting study of the diseases and ailments that affect so many Americans.

Alfred Mann's dedication to the biomedical community has and will continue to produce lasting and important discoveries as our nation faces the challenge of curing the world's most devastating illnesses. His commitment to helping others through research and philanthropy has and will continue to have a positive affect for all of us. I ask all Members of Congress to join me in honoring a man who has given a lifetime to making a difference in our Nation.

CELEBRATING 20TH ANNIVERSARY OF TAIWAN RELATIONS ACT

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Ms. ROS-LEHTINEN. Mr. Speaker, on April 10th, we celebrated the 20th anniversary of the Taiwan Relations Act being signed into law. Since the time of its enactment, it has only served to strengthen the position of the Republic of China on Taiwan, internationally, as both an economic power and champion of democracy in Asia.

The Taiwan Relations Act set the premise for the United States long standing friendship with the Formosa Island. Throughout the years, that commitment of friendship has been met with our continual support of their security needs, as well as a strong trade partnership.

In closing, I want to commend the wonderful work of Ambassador C.J. Chen and his staff in representing the needs and concerns of the ROC and always extending the friendship of the Taiwanese to those of us here in Washington, DC. Through their efforts, I am certain that the relationship between the United States and Taiwan, anchored in the Taiwan Relations Act, will continue to strengthen in the years ahead.

IN RECOGNITION OF THE DEAN OF THE FLORIDA LEGISLATURE

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. SHAW. Mr. Speaker, I rise today to honor the 24-year legislative career of my friend, and constituent, Ron Silver. Ron Silver exemplifies the essence of what it means to be a public servant. Throughout his legislative career Ron has served Florida and the people of Miami-Dade county with dignity and honor. His peers fondly named him Dean of the Florida Legislature.

A native of Cambridge, Massachusetts, Ron and his family moved to Florida in 1958 where young Ron began laying the groundwork for a legislative career that would span over two decades, include five U.S. presidents and six Florida governors. In 1978, Ron took his ideas and vision to Tallahassee as a member of the Florida House of Representatives. There, Ron worked tirelessly on issues such as health care, aging and long term care, and criminal justice. His leadership was rewarded when his colleagues elected him to two terms as House Majority Whip and Majority Leader. In these leadership roles, Ron had the enviable task of building consensus among of his Democratic colleagues. Not an easy task, but one that Ron relished.

In 1992, Ron, with the support of his beloved wife, Irene, was elected to the Florida Senate. In the Senate, he was again elected to a leadership role as Majority Leader. As a member of that distinguished body, Ron stands out as a champion of disadvantaged Floridians. Ron shares my commitment to reducing Florida's welfare rolls by promoting personal responsibility and giving a hand up as opposed to a hand out. Our partnership

grew as a result of the historic 1996 welfare reform act and it continues today as we fund the critical program known as Temporary Assistance for Needy Families (TANF).

Although 2002 brings an end to Ron Silver's legislative service, Mr. Speaker, I am certain Ron will continue serving his community and the great state of Florida for many years to come.

Mr. Speaker, as Chairman of Florida's Congressional delegation, I salute Ron Silver, on his twenty-four great years of honorable service in the Florida legislature and wish him and his family the very best in the years to come. I'm proud to call Ronald Alden Silver my friend.

IN SECULAR INDIA, HINDU LIVES
WORTH TWICE AS MUCH AS MUS-
LIM LIVES

HON. CYNTHIA A. MCKINNEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Ms. MCKINNEY. Mr. Speaker, the government of India is compensating the families of those who lost their lives in the recent riots in Gujarat. While no amount of money makes up for the loss, this is a decent thing to do and I salute India for it.

However, Mr. Speaker, I was disturbed to find out that apparently in the world's largest secular democracy, a Hindu life is worth twice as much as a Muslim life. According to News India-Times, the Indian government is paying out 200,000 Rupees each to the families of Hindus who were killed, but just 100,000 Rupees to the family of each Muslim killed.

Mr. Speaker, I think it is offensive that a country that claims it is democratic thinks that the life of one person or group is twice as valuable as that of another person or group. What if our government declared white lives twice as valuable as black ones, or vice versa? Would that be tolerated?

The article also notes that during the riots, "Muslim establishments were targeted in an organized manner—even when they masqueraded under Hindu names and were run in Hindu majority areas." This seems to indicate the government's hand in the planning of the riots, an impression that is reinforced by the fact that the police stood by and let the carnage happen.

This is simply part of an ongoing Hindu nationalist campaign to wipe out religious minorities. It is unacceptable, Mr. Speaker, and America must help to put a stop to it. We should stop all aid to India until all people enjoy equal rights and we should demand a free and fair plebiscite in Kashmir, Khalistan, Nagaland, and the other nations seeking to get out from under India's brutal occupation. These steps will help bring real freedom, stability, and prosperity to the South Asian region.

Mr. Speaker, I would like to place the News India-Times article into the RECORD.

[From the News India-Times March 29, 2002]

MUSLIMS SUFFER BIAS EVEN AFTER THE RIOTS

AHMEDABAD—The state government has been booking those responsible for the Godhra carnage under draconian Prevention of Terrorism Ordinance (POTO), while those who targeted Muslims and their business es-

tablishments in an organized manner in the state are being booked under the milder Criminal Procedure Code. POTO allows a person to be held without bail for 30 days.

Rights activists here contended that this was yet another example of the state government's bias against the Muslim community, and called for the scrapping of POTO.

Earlier, Chief Minister Narendra Modi's government had announced compensation of Rs. 200,000 (\$4,166) for the victims of the Godhra tragedy, while the amount for those who died in the widespread retaliatory riots was fixed at half that amount, Rs. 100,000 (\$2,083).

Rights activists as well as journalists covering the riots have noted how Muslim establishments were targeted in an organized manner—even when they masqueraded under Hindu names and were run in Hindu majority areas.

THE INTERNATIONAL CRIMINAL
COURT

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. LANTOS. Mr. Speaker, today a number of countries will ratify the Rome Statute of the International Criminal Court, surpassing the 60 countries needed to bring the Rome Statute into force. Ratification of this treaty is a notable achievement for the new foreign policy of the European Union, which adopted a common position in support of ratification. Indeed many of our European allies and our other friends, such as Belgium, Canada, Finland, France, Germany, Hungary, Italy, the Netherlands, New Zealand, Sweden, Switzerland and the United Kingdom, have all ratified this landmark international instrument.

Everyone agrees that those who perpetrate genocide, crimes against humanity and war crimes must face justice, either before international tribunals or before the national courts of their own countries. And as we recently heard in the testimony before the Committee on International Relations, there may be situations, such as post-conflict societies, where it is simply impossible for national institutions to pursue prosecutions of such crimes. For example, the International Criminal Tribunals on the former Yugoslavia and Rwanda have done excellent work in those specific instances of gross violations of recognized international human rights norms.

While many Members of this House have expressed reservations regarding the exact form of this Court, we all must now recognize that it is a reality. Over 60 countries from every continent have determined that it may be appropriate at times for an international court, rather than their own national courts, to prosecute and try perpetrators of genocide, crimes against humanity, and war crimes committed on their territory. Given the concerns that have been expressed regarding the possibility of overzealous prosecutions coming from the Court, I believe that it is imperative that we now all work together to ensure that the Court is a responsible international actor that advances the cause of human rights and international accountability, and fulfills its promise as a worthy legacy of the Nuremberg Tribunal.

In order to achieve this end, I believe that the United States must remain engaged in the

creation of the Court and its institutions. In the Preparatory Commission meetings establishing the mechanics and operations of the Court, U.S. diplomats and other officials have played a key role in shaping this institution. While I have no illusions that the United States will ratify the Rome Statute anytime soon, it would be shortsighted for us to take steps to neutralize our ability to assist in this process. In particular, I call on the Administration not to "unsign" the Rome Statute. As a signatory and in our observer capacity, we can continue influencing the form of the Court over the course of the next year into an institution that can have the effect of supporting U.S. national security goals, not damaging them. That is what we should focus on, not actions that would isolate us further from our friends and allies.

Let us move forward constructively with respect to the International Criminal Court. If we do so, we may well be able to help advance the cause of human rights and international justice.

NATIONAL ORGAN AND TISSUE
DONOR AWARENESS WEEK

HON. CAROLYN MCCARTHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mrs. MCCARTHY of New York. Mr. Speaker, I rise in recognition of National Organ and Tissue Donor Awareness Week which begins April 21–27, 2002. As a nurse, I saw firsthand how transplants and the generosity of donors save lives. As a Congresswoman, I have been proud to help my constituents work through the process of transplant surgery, and bring awareness to the importance of donors.

A few years ago my office was fortunate enough to help a constituent, John Pellegrino of Floral Park, New York, navigate through the insurance maze. I'm pleased to note John celebrates his two-year liver transplant anniversary on April 13. However, John's anniversary is bittersweet, especially for his donor's parents, now also his good friends, Harold and Melinda Yarbrough of Louisiana. In the midst of facing the agony of losing their precious daughter Breann, the Yarbroughs gave life to John and six other people.

It is fitting to honor John and the Yarbroughs—as well as the thousands of transplant recipients and donors. According to the U.S. Department of Health and Human Services, Congress first designated the third full week in April as National Organ and Tissue Donor Awareness Week in 1983 (Public Law 98–99) to raise awareness of the critical need for organ and tissue donation and to encourage all Americans to share their decision concerning donation with their families. Bone grafts enable individuals to walk again while skin grafts save the lives of critically burned patients, and donated corneas prevent or correct blindness. Heart valves help repair critical cardiac defects. Today, more than 79,000 men, women and children wait for an organ transplant, without an increase in donation, that number will continue to escalate. Currently, 16 people die each day because there are not enough organs available for transplant. Every day 114 individuals are added to the national waiting list for organs.

I commend Breann's parents for making a decision that allowed John to live. I am grateful to Breann for her gift to John. We need more heroes like Breann. With awareness about organ and tissue donation, more organ transplants can save and enhance lives.

Join me in bringing awareness to National Organ and Tissue Donor Awareness Week, April 21–27, 2002.

IN OPPOSITION TO PROPOSED CUTS BY THE BUSH ADMINISTRATION IN THE CENTERS FOR DISEASE CONTROL AND PREVENTION'S (CDC) CHRONIC DISEASE PROGRAMS

HON. SILVESTRE REYES

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. REYES. Mr. Speaker, I rise today to urge the House to increase funding for the Centers for Disease Control and Prevention's (CDC) chronic disease programs including the CDC's diabetes control program. The diabetes control program has been successfully implemented in 16 states and we must continue to build on this success by assuring its implementation in all 50 states. Mr. Speaker, it is important to note that by 2010, it is estimated that over 10 percent of the population will have diabetes. In addition, current data suggest that diabetes is the seventh leading cause of death for Americans living along the U.S.-Mexico border and the third leading cause of death for Mexicans living on the other side of the border. It is estimated that nearly 30 percent of residents along the U.S.-Mexico border have diabetes and that one third don't even know they have the disease. Prevention of diabetes and its deadly complications are keys to fighting this horrible disease.

Chronic diseases like diabetes, heart disease, cancer, and arthritis are the leading cause of death in the United States, killing seven out of ten Americans. The costs of chronic diseases are staggering, with more than 70 percent of health care expenditures in the United States going to combat or treat chronic diseases. By 2020, it is estimated that \$1 trillion, or 80 percent of health expenditures, will be spent on chronic diseases.

Unfortunately, President Bush's budget calls for a \$175 million cut in the CDC's chronic disease budget. With cuts of these magnitudes, the CDC will not have the resources it needs to combat the pending diabetes epidemic. I urge my colleagues to support a \$350 million increase in the CDC's chronic disease budget and to send a clear message that combating diseases such as diabetes must remain a national priority.

HONORING JOE SESTO

HON. LOIS CAPPS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mrs. CAPPS. Mr. Speaker, today I would like to pay tribute to an outstanding citizen, Mr. Joe Sesto, upon the celebration of his

90th birthday. Mr. Sesto has been an extraordinary asset to the City of Santa Maria, California, as well as to Vandenberg Air Force Base, since he arrived on the Central Coast in 1950.

Even at the age of 90, it is difficult to find anyone who is as active in the community as Mr. Sesto. He continues to serve on several community boards, and at a recent Santa Maria Chamber of Commerce annual meeting, was dubbed "Mr. Santa Maria." Mr. Sesto received the Golden Medallion Award for being the Chairman of the Local American Heart Association, and was the President of the Santa Maria Chamber of Commerce in 1954. He has also been the Chairman for the Ways and Means Committee for the Construction of the Marian Medical Center, which is the primary hospital in Santa Maria. Mr. Sesto has served on the County Grand Jury, the County Arts Commission, the County Health Commission, and the City of Santa Maria Planning Commission. He was the Chairman for the Development of the Cultural Facilities, Chairman for the Bond Drive to Build Hancock College Performing Arts Theater and past President of the Robert Goddard Chapter of the Air Force Association.

Mr. Sesto is also the Chairman of the Military Affairs Committee and has served as liaison to Vandenberg Air Force Base since its inception in 1957. He has received national, state and local awards for his Air Force Association activities, including the highest civilian award given by the Air Force, "The Exceptional Service Award." In 1990, Mr. Sesto was named the Honorary Missiler at the Missile Competition, and the base auditorium was named The Sesto Auditorium in 1986.

Joe Sesto has shared his glorious sense of humor and generous heart with his fellow central coast neighbors for many, many years. He and his wife Philomene, who have been married for 67 years, can only be described as true pillars of the Santa Maria Valley. I am blessed to know this wonderful individual, and urge my colleagues to join me in wishing him birthday greetings on this joyous occasion.

TRIBUTE TO THE MEMORY OF
PHILLIP AMBRIS SUSTAITA

HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. BACA. Mr. Speaker, today I would like to pay tribute to the memory of Phillip Ambris Sustaita, the loving father of my friend, Luisa Sustaita. It is with much sadness that I inform my colleagues of the passing of a great individual, a man who filled our world and the lives of those around him with love, compassion and family values.

Luisa's father, Phillip, was born on May 10, 1921 in Denver, Colorado, and passed away on March 17, 2002 at the age of 80. Phillip Sustaita bravely served his country during World War II as a member of the United States Navy. Afterwards, Mr. Sustaita began a 40-year career as a Stationary Engineer with National Ice and Cold Storage. He lived in Sacramento, California for 60 years.

Phillip Ambris Sustaita was a hardworking man and pioneer who raised his family with love especially his daughter Luisa who was

very special to him. Luisa and her father shared a very close relationship. Throughout Luisa's life her father was a constant source of love and support. He was a father, mentor and best friend to her. Luisa will long remember the wonderful things he brought to her family and to the lives that he touched. Phillip was and remains a tremendous figure in the thoughts and memories of his loved ones. His loss will be felt most deeply.

They say a man is measured by the lives he touches. Through the Grace of God he Phillip Ambris Sustaita touched many lives. Phillip was widely admired by family, friends and colleagues. He was hard working, dedicated, committed, disciplined, loving and supporting. He was everything one would want in a father, husband, and grandfather. He demonstrated his commitment to marriage and his family he provided love and ongoing support to his children, grandchildren and played an active role in raising them. He was a strong person, the backbone to his family. He possessed honesty, strength, leadership and courage. He was considered a true friend in every sense of the word. Luisa's mother, brothers and sisters and numerous nieces and nephews, join her in mourning the loss of their father.

And so Mr. Speaker, I submit this loving memorial and join with all of those whom he loved in extending my prayers along with Barbara to Luisa and hope that she may find peace and comfort during this time of sorrow. Phillip Ambris Sustaita leaves his legacy in the heart of his beloved daughter, Luisa Sustaita, and all those who knew him.

IN HONOR OF MR. THOMAS A. CRAIGG, JR., SERGEANT, USMC
RETIRED

HON. WALTER B. JONES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. JONES of North Carolina. Mr. Speaker, it is my honor to stand before you and my colleagues today as I talk to you about a man who, in accordance with his great service to our nation, will receive two honors that have been years in coming.

In 1940, Mr. Thomas Craigg enlisted in the Marine Corps. When War broke out in 1941, Private First Class Thomas Craigg was on the Philippine Island of Luzon and Marines were under Army command distributed along the Bataan Peninsula.

On the morning of February 24, 1942, "the Commanding Officer of Charlie Battery, mounted a patrol of 75 Marines and Sailors to investigate an enemy Japanese force. The patrol encountered an enemy, which was far superior in number and well equipped troops with heavy machine guns and supporting mortars. The Commanding Officer dispatched a runner to the nearest antiaircraft battery for reinforcements with instructions for the gun captain to report to the commanding officer's position on the bluff overlooking Lapiay Point. Private First Class Craigg arrived with his 13-man squad and engaged two enemy gun emplacements, which had the main body pinned down and were dropping mortar and howitzer rounds among the patrol. With complete disregard for his personal safety, Private First Class Craigg repeatedly exposed himself to

enemy fire providing clear and concise guidance to his squad and effectively eliminated one gun position. He laid down covering fire, which enabled the patrol to disengage from the main enemy force and withdraw to another position."

Following Private First Class Craigg's heroic actions, his Commanding Officer informed him that he was going to officially recommend him for the Silver Star Medal. Unfortunately, Mr. Craigg's Commanding Officer was killed in action before this recommendation could be made. Thankfully, Mr. Speaker, while Mr. Craigg's Commanding Officer could no longer retell the story of his courageous actions that Day in 1942, others never forgot what he did, and as a result, I am proud to say that on March 30th, Mr. Craigg will be awarded the Silver Star Medal for "extraordinary heroism in the face of extreme danger."

Amazingly enough Mr. Speaker, Mr. Craigg's story does not end here. Shortly after this battle, Private First Class Craigg would be captured by Japanese forces on the Bataan Peninsula only to escape a short time later and make his way via boat to the island of Corregidor where he would engage the enemy in battle once again.

After 28 days of further fighting however, the Marines and Sailors on Corregidor were ordered to surrender and they were taken back to Bataan where Private First Class Craigg would survive the infamous Bataan death march. Mr. Craigg was eventually sent on a brutal trip to Japan where he would spend more than two years working in coal mines while enduring severe starvation and beatings. As a result of the beatings he received, Mr. Craigg will also be receiving his third award of the Purple Heart on March 30th.

Despite his traumatic experience as a prisoner of war, Mr. Craigg returned to the ranks and participated in the historic American invasion at Inchon, Korea with the 7th Marine Regiment. In October of 1963, Mr. Craigg retired from the United States Marines Corps with the rank of Gunnery Sergeant.

After his retirement, Mr. Craigg's passion for the armed service did not wane. He became very involved in his local chapter of the Disabled American Veterans and from 1981–1983 served as State Commander.

Though born in Arkansas, Mr. Craigg made the wise decision of marrying a North Carolinian, the late Anne Toler. The Craigg family also includes 5 children: Beverly, Joan, David, Carroll Wayne and Thomas III. Mr. Craigg now resides in Jacksonville, which is also fittingly the home of Marine Corps Base Camp Lejeune.

There are few words to aptly praise the courage, sacrifice, and heart it takes to serve his country the way Mr. Craigg did during his twenty-two years in the United States Marine Corps. As an American, I am deeply grateful for the sacrifices made all those years ago. As a man, I am awed by Mr. Craigg's dedication to his community, his country, and, of course, his family. And as a United States Congressman, I am humbled by the privilege of being allowed the opportunity to share the accomplishments of Gunnery Sergeant Thomas A. Craigg, Jr.

We salute you, Mr. Craigg. Your most recent awards have been a long time in coming, but it is well deserved. God Bless you!

TAXPAYER PROTECTION AND IRS ACCOUNTABILITY ACT OF 2002

SPEECH OF

HON. CAROLYN MCCARTHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 9, 2002

Mrs. MCCARTHY of New York. Mr. Speaker, I rise to express my concern with H.R. 3991, the Taxpayer Protection and IRS Accountability Act, because of the "527" provision hidden inside of it. This provision is a feeble attempt by the GOP leadership to gut campaign finance reform by attaching a controversial provision to a popular and passable taxpayer protection bill.

The "527" provision would have opened a loophole in the recently passed campaign finance bill by permitting thousands of dollars of campaign contributions to escape public disclosure. The problem lies in the bill's provisions to exempt state and local 527s from Federal reporting as long as they are required to report "substantially similar" information at the state level. My problem with that is who would be the judge of what "substantially similar" means? The bill makes it easier for federal candidates and party officials to solicit funds and coordinate campaigns with 527s. The bottom line is that this provision would make it extremely difficult to track these groups and their activities.

I want a real solution that would ease the federal filing requirements while closing all loopholes. I cannot allow all of our progress made from passing the campaign finance bill to be underscored by voting for a bill with a poison pill inserted into it. The amount of hard work and support put into the campaign finance reform bill cannot be allowed to be undone by passing H.R. 3991.

A TOWN MEETING FOR YOUNG PEOPLE

HON. BERNARD SANDERS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. SANDERS. Mr. Speaker, I want to take this opportunity to inform you about a very important and exciting Town Meeting for Young People that I held at the University of Vermont on Monday, April 8, 2002. This meeting brought young people together from all over the state of Vermont to discuss some of the most pressing issues facing our country. Fifteen high schools and youth organizations and about 100 students attended this all day event and provided some excellent and well-researched testimony that I intend, at a later date, to enter into the CONGRESSIONAL RECORD. I want to thank UVM President Edward Colodny for welcoming the students to UVM, and I want to thank the University for their hospitality. I also want to thank Professor Huck Gutman for spending the entire day with the students and me and doing an excellent job in flushing out their ideas.

Let me at this time mention to you who was at the event and some of the topics that they addressed. Let me also suggest that other Members might be interested in putting on similar events in their congressional districts.

The young people of this country have a lot to say, and I think that it's important for members of Congress to listen to them.

Following are the names of the students who participated in the Town Meeting and their schools or youth organizations: Jessica Walters and Falinda Hough from the Lund Family Center discussed problems relating to Teenage Drinking; Dan Hill from YouthBuild Burlington discussed Affordable Housing issues; Becca Van Hrn, Eli Brannon and Sam Parker from Proctor High School talked about "Free Trade not being Fair Trade"; Lee Goldsmith, Greg Howard and Robby Short from Mt. Anthony High School spoke about Student ID cards; Ruth Blake from Straight Talk Vermont talked about the Teen Expressions Dance Company; Troy Ault, Reid Garrow, Stefanie Gray, Danielle Harvey and Andrea Shahan from Straight Talk Vermont discussed the Problem of Child Labor, Erica Hollner, Katie Kervorkian, Kerry McIntosh and Bethany Wallace from Mt. Anthony High School talked about being pen pals with students in Pakistan; Matt Alden from the Craftsby School spoke about Underage Drinking; Candace Crosby, Kim Dickenson, Katie Lanigan and Gladys Wong from Spaulding High School discussed the issue of Inadequate Financial Aid for College; Steph Bernath, Nicolette Baron, Alan Blackman and Halie Paradee from Lamoille High School talked about the rights of Abenaki Indians in Vermont; Marcia Lo Monoco, Sarah Kunz, Delia Kipp and Colin Robinson from Brattleboro High School talked about CLEA-Child Labor Education Action and their trip to Guatemala; Joseph Ferris from Rutland High School talked about the importance of Amtrak; Sean Fontaine, James Nichols and Krystal Turnbaugh from YouthBuild Burlington discussed issues related to Juvenile Justice; Katie Blanchard, Cady Merrill, Jesse Butler and Stephanie Horvath from Rutland High School talked about the issue of Abortion and parental involvement; Kelly Green from Craftsby School talked about the Cost of College and the Burden of Debt; Peter Hicks, Kristy Lamb, Brittany Hickman, Evan Worth and Nick Smith from Lamoille High School discussed Education Reform; Travis Buck from Mt. Abraham High School talked about Genetically Modified Foods; Elizabeth Echeverria and Damon Rooney from Craftsby School spoke about Labor Exploitation; Jessica Predom and Autumn Rozon from the Boys & Girls Club of Vergennes discussed Teen Image issues; Daniel A. May from Rutland High School talked about Student Representation on School Boards; Amy Canton, Shana Griffin, Ashley St. John and Jamie Walbridge from Spaulding High School discussed Graduated License issues; Megan Sullivan, Matt O'Brien, Rebecca Emmons, Alex McKenzie and Carson Gazely from Harwood High School talked about educational funding and Other Peoples Children-National Act 60;

Heidi Neil and Martha Mack from Mt. Abraham High School addressed the issue of Teen Smoking; Keith Blow, Jessica Davis, Jessica Oakes, Shirlaine Miller and Ruhin Yuridulla from Spaulding High School talked about their concern regarding Income Taxes for Student Workers; Chastity Norris and Kim Lunna from Mt. Abraham High School gave their views on the need for a National Civil Unions; Amy Downs and Anissa Coward from YouthBuild Burlington talked about Affordable Childcare; Lindy Stetson from Mt. Abraham High School

talked about Drug Testing for Students; Thomas Lamson, Vanessa Hinton and Monica Brooks from Spaulding High School spoke about the Attack on Individual Rights; Jack Fleisher and Elden Kelly from Mt. Mansfield High School talked about Alternative Energy Vehicles; Jonathan Edmondson from Rice Memorial High School spoke about Arafat: Leader of Freedom Fighters or Terrorist Leader; Tim Fitzgerald from Rice Memorial High School spoke about US Aid to Third World Countries; Elizabeth Christolini from Rice Memorial High School talked about Bettering Education; Rebecca Lee Marquis from Rice Memorial High School talked about a Multi-national Impact; Timothy Plante from Rice Memorial High School addressed the issue of Israel and Palestine: Change of Leadership For Progress; Hailey Davis from Rice Memorial High School discussed Is NATO Necessary?; and Pierson Booher also of Rice Memorial High School discussed the issue of The Arab-Israel Conflict and America's Position.

I am extremely proud of all of the students who attended this Town Meeting. I was deeply impressed by their testimony and applaud their initiative in seeking to make their communities a better place in which to live. Too often, in my view, the media focuses on the problems facing young people. As a nation we do not pay enough attention to the hard and constructive work being done by millions of students and their teachers all across our nation.

Let me conclude by thanking all of the young people and their teachers for their participation.

U.S. MARSHALS SERVICE

HON. CHRIS CANNON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 11, 2002

Mr. CANNON. Mr. Speaker, today I rise to speak about a little-known but tremendously important part of the Department of Justice: the United States Marshals Service. The Marshals play a critical role in areas we take for granted, such as court security and prisoner transportation. And for that, the Marshals should be applauded.

However, I recently learned of the efforts of an elite part of the Marshals Service—the Special Operations Group (SOG). Lead by Commander Scott Flood and Executive Officer Walter “Keith” Ernie, the Special Operations Group is based in Camp Beauregard, Louisiana. This all-volunteer team of more than 90 professionals is to be commended for their willingness to take on any assignment, no matter how dangerous, in pursuit of Justice and the safety and stability of our country.

Just last weekend, members of the Special Operations Group flew to Puerto Rico to deal

with protesters on Vieques Island, while others came to Virginia to provide special protection for those being prosecuted in America’s war on terrorism. During the September 11th crisis, the Special Operations Group helped secure airports around the country, preserve evidence at the Pentagon and World Trade Center crash sites, and protect federal judges and courthouses from other threats.

While much of this is all in a day’s work, I am amazed that this group of men and women actually volunteer to take on the extra challenges and greater dangers of being a SOG member. Those in the Special Operations Group receive no extra pay. Yet, the training and the missions are incredibly demanding. And the demands are not just on the members themselves, but on their families—being a member of SOG requires extensive travel away from wives, husbands, and children.

Nevertheless, Commander Flood and his team work quietly outside of the spotlight to make sure that the tough jobs get done.

Much of what SOG does cannot be discussed on the floor of the House of Representatives. Nevertheless, I believe that the men and women of the United States Marshals Service’s Special Operations Group are true heroes. And I, for one, am grateful for their service to our Nation.

Daily Digest

HIGHLIGHTS

Senate passed H.R. 3295, Election Reform.

The House passed H.R. 3762, Pension Security Act.

Senate

Chamber Action

Routine Proceedings, pages S2507–S2603

Measures Introduced: Thirty-one bills and three resolutions were introduced, as follows: S. 2089–2119, and S. Res. 236–238. **Pages S2577–78**

Measures Reported:

Report to accompany S. Con. Res. 100, setting forth the congressional budget for the United States Government for fiscal year 2003 and setting forth the appropriate budgetary levels for each of the fiscal years 2004 through 2012. (S. Rept. No. 107–141)

S. 924, to provide reliable officers, technology, education, community prosecutors, and training in our neighborhoods, with an amendment in the nature of a substitute. **Page S2577**

Measures Passed:

Election Reform: By 99 yeas to 1 nay (Vote No. 65), Senate passed S. 565, to require States and localities to meet uniform and nondiscriminatory election technology and administration requirements applicable to Federal elections, to establish grant programs to provide assistance to States and localities to meet those requirements and to improve election technology and the administration of Federal elections, and to establish the Election Administration Commission, after taking action on the following amendments proposed thereto: **Pages S2516–56**

Adopted:

By 56 yeas to 43 nays (Vote No. 63), Roberts/McConnell Amendment No. 2907, to eliminate the administrative procedures of requiring election officials to notify voters by mail whether or not their individual vote was counted. **Pages S2516, S2542–43**

Dodd/McConnell Amendment No. 3117, to amend the title of the bill. **Page S2543**

Rejected:

By 48 yeas to 52 nays (Vote No. 64), Clinton Amendment No. 3108, to establish a residual ballot performance benchmark. **Pages S2516, S2543**

During consideration of this measure today, Senate also took the following action:

McConnell (for Hatch) Amendment No. 3107, to establish the Advisory Committee on Electronic Voting and the Electoral Process, and to instruct the Attorney General to study the adequacy of existing electoral fraud statutes and penalties, adopted by the Senate on Wednesday, April 10, 2002, was modified to reflect a technical correction. **Page S2516**

Subsequently, passage of S. 565 was vitiated, and the bill was then returned to the Senate Calendar. **Page S2599**

Election Reform: By unanimous consent, Committee on Rules and Administration was discharged from further consideration of H.R. 3295, to require States and localities to meet uniform and non-discriminatory election technology and administration requirements applicable to Federal elections, to establish grant programs to provide assistance to States and localities to meet those requirements and to improve election technology and the administration of Federal elections, and to establish the Election Administration Commission, and the bill was then passed, after striking all after the enacting clause and inserting in lieu thereof, the text of S. 565, Senate companion measure, as amended, and after agreeing to the following amendment proposed thereto: **Pages S2543, S2544**

Dodd/McConnell Amendment No. 3118, to amend the title of the bill. **Page S2543**

Senate insisted on its amendment, requested a conference with the House thereon, and the Chair was authorized to appoint conferees on the part of the Senate. **Page S2543**

Commending University of Minnesota-Duluth Bulldogs: Senate agreed to S. Res. 236, commending

the University of Minnesota-Duluth Bulldogs for winning the 2002 National Collegiate Athletic Association Division I Women's Ice Hockey National Championship. **Page S2600**

Commending University of Minnesota Golden Gophers: Senate agreed to S. Res. 237, commending the University of Minnesota Golden Gophers for winning the 2002 National Collegiate Athletic Association Division I Men's Hockey National Championship. **Page S2600**

Commending University of Minnesota Golden Gophers: Senate agreed to S. Res. 238, commending the University of Minnesota Golden Gophers for winning the 2002 NCAA Division I Wrestling National Championship. **Pages S2600-01**

Energy Policy Act: Senate continued consideration of S. 517, to authorize funding for the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, taking action on the following amendments proposed thereto:

Pages S2507-16, S2556-71

Adopted:

By 69 yeas to 30 nays (Vote No. 66), Durbin Modified Amendment No. 3094 (to Amendment No. 2917), to establish a Consumer Energy Commission to assess and provide recommendations regarding energy price spikes from the perspective of consumers. **Pages S2563-65**

Bingaman (for Rockefeller) Amendment No. 3119 (to Amendment No. 2917), to ensure the safety of the nation's mines and mine workers. **Pages S2567-69**

Bingaman (for Levin) Amendment No. 3120 (to Amendment No. 2917), to require the Secretary of Energy to conduct a study on the effect of natural gas pipelines and other energy transmission infrastructure across the Great Lakes on the Great Lakes ecosystem. **Pages S2567-69**

Bingaman (for Schumer) Amendment No. 3121 (to Amendment No. 2917), to promote the demonstration of certain high temperature superconducting technologies. **Pages S2567-69**

Bingaman (for Smith of OR) Amendment No. 3122 (to Amendment No. 2917), to authorize a study of the way in which energy efficiency standards are determined. **Pages S2567-69**

Bingaman (for Durbin) Amendment No. 3123 (to Amendment No. 2917), to encourage energy conservation through bicycling. **Pages S2567-69**

Rejected:

Feinstein Amendment No. 3114 (to Amendment No. 2917), to reduce the period of time in which the Administrator may act on a petition by 1 or more States to waive the renewable fuel content re-

quirement. (By 61 yeas to 36 nays (Vote No. 67), Senate tabled the amendment.)

Pages S2508-11, S2558-63, S2565-66

Pending:

Daschle/Bingaman Further Modified Amendment No. 2917, in the nature of a substitute. **Pages S2508-16**

Kerry/McCain Amendment No. 2999 (to Amendment No. 2917), to provide for increased average fuel economy standards for passenger automobiles and light trucks. **Page S2508**

Dayton/Grassley Amendment No. 3008 (to Amendment No. 2917), to require that Federal agencies use ethanol-blended gasoline and biodiesel-blended diesel fuel in areas in which ethanol-blended gasoline and biodiesel-blended diesel fuel are available. **Page S2508**

Lott Amendment No. 3028 (to Amendment No. 2917), to provide for the fair treatment of Presidential judicial nominees. **Page S2508**

Landrieu/Kyl Amendment No. 3050 (to Amendment No. 2917), to increase the transfer capability of electric energy transmission systems through participant-funded investment. **Page S2508**

Graham Amendment No. 3070 (to Amendment No. 2917), to clarify the provisions relating to the Renewable Portfolio Standard. **Page S2508**

Schumer/Clinton Amendment No. 3093 (to Amendment No. 2917), to prohibit oil and gas drilling activity in Finger Lakes National Forest, New York. **Page S2508**

Dayton Amendment No. 3097 (to Amendment No. 2917), to require additional findings for FERC approval of an electric utility merger. **Page S2508**

Schumer Amendment No. 3030 (to Amendment No. 2917), to strike the section establishing a renewable fuel content requirement for motor vehicle fuel. **Pages S2511-15**

Feinstein/Boxer Amendment No. 3115 (to Amendment No. 2917), to modify the provision relating to the renewable content of motor vehicle fuel to eliminate the required volume of renewable fuel for calendar year 2004. **Pages S2515-16**

U.S. Border Security/Energy Policy Act Agreement: A unanimous-consent agreement was reached providing that the Committee on the Judiciary be discharged from further consideration of H.R. 3525, to enhance the border security of the United States, and the Senate begin consideration of the bill at 11:30 a.m., on Friday, April 12, 2002. Further, that upon the resumption of the S. 517, Energy Policy Act, Senator Murkowski be recognized to offer an amendment with respect to ANWR. **Page S2564**

Nominations Confirmed: Senate confirmed the following nominations:

Robert Watson Cobb, of Maryland, to be Inspector General, National Aeronautics and Space Administration. **Pages S2599, S2603**

Nominations Received: Senate received the following nominations:

Tony Hammond, of Virginia, to be a Commissioner of the Postal Rate Commission for the remainder of the term expiring October 14, 2004.

Steven M. Biskupic, of Wisconsin, to be United States Attorney for the Eastern District of Wisconsin for the term of four years.

Jan Paul Miller, of Illinois, to be United States Attorney for the Central District of Illinois for the term of four years.

1 Army nomination in the rank of general.

1 Marine Corps nomination in the rank of general.

A routine list in the Marine Corps. **Page S2603**

Messages From the House: **Page S2575**

Measures Referred: **Page S2575**

Executive Communications: **Pages S2575–77**

Executive Reports of Committees: **Page S2577**

Additional Cosponsors: **Pages S2578–79**

Statements on Introduced Bills/Resolutions:
Pages S2579–95

Additional Statements: **Pages S2574–75**

Amendments Submitted: **Pages S2595–98**

Authority for Committees to Meet: **Pages S2598–99**

Record Votes: Five record votes were taken today. (Total—67) **Pages S2543, S2544, S2565, S2566**

Adjournment: Senate met at 10:01 a.m., and adjourned at 6:32 p.m., until 10:30 a.m., on Friday, April 12, 2002. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S2601).

Committee Meetings

(Committees not listed did not meet)

HOMELAND SECURITY

Committee on Appropriations: Committee concluded hearings to examine homeland security funding issues, focusing on federal funding support of state and local government security efforts, including first responders and bioterrorism, infrastructure security, port security, water infrastructure, and nuclear facility security, receiving testimony from former Senator Rudman, on behalf of the U.S. Commission on National Security/21st Century; Maj. Gen. Richard C. Alexander, ANGUS (Ret.), National Guard Association of the United States; Adm. Richard M. Larrabee, USCG (Ret.), Port Authority of New York

and New Jersey, Thomas Von Essen, on behalf of the International Association of Fire Chiefs, and Stephen E. Flynn, Council on Foreign Relations, all of New York, New York; Michael J. Crouse, International Association of Fire Fighters, Washington, D.C.; Philip C. Stittleburg, LaFarge Volunteer Fire Department, LaFarge, Wisconsin, on behalf of the National Volunteer Fire Council; Lonnie J. Westphal, Colorado State Patrol, Denver, on behalf of the International Association of Chiefs of Police; Gary Cox, Tulsa City-County Health Department, Tulsa, Oklahoma, on behalf of the National Association of County and City Health Officials; Michael Errico, Washington Suburban Sanitary Commission, Laurel, Maryland, on behalf of the Association of Metropolitan Water Agencies; David Lochbaum, Union of Concerned Scientists, Cambridge, Massachusetts; and Jeff Benjamin, Exelon Generation Company, Chicago, Illinois, on behalf of the Nuclear Energy Institute.

DEFENSE AUTHORIZATION

Committee on Armed Services: Subcommittee on Personnel concluded hearings on proposed legislation authorizing funds for fiscal year 2003 for the Department of Defense, focusing on military personnel benefits, after receiving testimony from Charles S. Abell, Assistant Secretary of Defense for Force Management Policy; Derek B. Stewart, Director, Defense Capabilities and Management, General Accounting Office; Master Chief Joseph L. Barnes, USN (Ret.), Fleet Reserve Association, Joyce W. Raezer, National Military Family Association, Inc., and Master Sgt. Michael P. Cline, USA (Ret.), Enlisted Association of the National Guard of the United States, all of Alexandria, Virginia; and Susan M. Schwartz, Retired Officers Association, and CMSGT James E. Lokovic, USAF (Ret.), Air Force Sergeants Association, both of Washington, D.C.

DEFENSE AUTHORIZATION

Committee on Armed Services: Subcommittee on Strategic concluded open and closed hearings on proposed legislation authorizing funds for fiscal year 2003 for the Department of Defense, focusing on the intelligence, surveillance, and reconnaissance programs of the Department of Defense, after receiving testimony from John P. Stenbit, Assistant Secretary of Defense for Command, Control, Communications and Intelligence; and Lt. Gen. Gregory S. Newbold, USMC, Director of Operations, J3, and Rear Adm. Stanley R. Szemborski, USN, Deputy Director for Resources and Requirements, J8, both of the Joint Staff.

HOUSING VOUCHER PROGRAM

Committee on Banking, Housing, and Urban Affairs: Committee concluded oversight hearings to examine proposals to improve the Section 8 Housing Choice Voucher Program, after receiving testimony from Ophelia B. Basgal, Housing Authority of County of Alameda and City of Dublin, Hayward, California, on behalf of the National Association of Housing and Redevelopment Officials; Scott Gardner, Crosshaven Properties, Inc., Tulsa, Oklahoma, on behalf of the National Apartment Association; Ann O'Hara, Technical Assistance Collaborative, Boston, Massachusetts, on behalf of the National Low Income Housing Coalition; and Benson F. Roberts, Local Initiatives Support Corporation, Washington, D.C.

ENRON CORPORATION

Committee on Commerce, Science, and Transportation: Subcommittee on Consumer Affairs, Foreign Commerce, and Tourism concluded hearings to examine Enron's potential role in electricity market manipulation and the subsequent effect on the western states, after receiving testimony from California State Senator Joseph Dunn, and S. David Freeman, California Power Authority, both of Sacramento; Loretta Lynch and Gary Cohen, both of California Public Utilities Commission, San Francisco; Wenonah Hauter, Public Citizen, Washington, D.C.; and Robert McCullough, McCullough Research, Portland, Oregon.

TAX AVOIDANCE SCHEMES

Committee on Finance: Committee held hearings to examine various improper and illegal tax avoidance schemes, including the use of credit/debit cards to access offshore bank accounts established to conceal taxable income, receiving testimony from Ronald A. Cimino, Chief, Western Region Criminal Enforcement Section, Tax Division, Donald Daniels, Assistant United States Attorney for the Western District of Michigan, both of the Department of Justice; Charles O. Rossotti, Commissioner, Internal Revenue Service, and David C. Williams, Inspector General, Treasury Inspector General for Tax Administration, both of the Department of the Treasury; Michael Brostek, Director, Tax Issues, General Accounting Office; Jack A. Blum, Lobel, Novins and Lamont, Washington, D.C.; Daniel W. Bullock, Atwater, California; Jennifer P. Sodaro, Scottsdale, Arizona; Kelly Stone, Belgrade, Montana; and Robert L. and Mary Elaine Spears, both of Traverse City, Michigan.

Hearings recessed subject to call.

NATIONAL HOMELAND SECURITY

Committee on Governmental Affairs: Committee held hearings to examine proposed legislation to establish

a Department of National Homeland Security and a White House Office to Combat Terrorism, receiving testimony from Senators Graham, Gregg, and Specter; Representatives Harman, Tauscher, and Thornberry; former Senator Rudman, on behalf of the U.S. Commission on National Security /21st Century; David M. Walker, Comptroller General of the United States, General Accounting Office; Mitchell E. Daniels, Jr., Director, Office of Management and Budget; Philip Anderson, Center for Strategic and International Studies, and Paul C. Light, Brookings Institution, both of Washington, D.C.; I.M. Destler, University of Maryland School of Public Affairs, College Park; Stephen Gross, Border Trade Alliance, San Diego, California; and Elaine Kamarck, Harvard University John F. Kennedy School of Government, Cambridge, Massachusetts.

Hearings recessed subject to call.

NOMINATION

Committee on Governmental Affairs: Committee concluded hearings on the nomination of Paul A. Quander, Jr., to be Director of the District of Columbia Offender Supervision, Defender, and Courts Services Agency, after the nominee, who was introduced by District of Columbia Delegate Eleanor Holmes Norton, testified and answered questions in his own behalf.

GLOBAL AIDS

Committee on Health, Education, Labor, and Pensions: Committee concluded hearings to examine issues related to health care for patients with the AIDS virus and what can be done to address the global HIV/AIDS pandemic, after receiving testimony from Sandra Thurman, International AIDS Trust, Washington, D.C.; Elton John, Elton John AIDS Foundation, Beverly Hills, California; Peter Mugenyi, Joint Clinical Research Centre, Kampala, Uganda; Allan Rosenfield, Columbia University Mailman School of Public Health, New York, New York; and Debbie Dortzbach, World Relief International, Baltimore, Maryland.

BUSINESS MEETING

Committee on the Judiciary: Committee ordered favorably reported the following business items:

S. 924, to provide reliable officers, technology, education, community prosecutors, and training in our neighborhoods, with an amendment in the nature of a substitute; and

The nominations of Terrence L. O'Brian, of Wyoming, to be United States Circuit Judge for the Tenth Circuit, Lance M. Africk, to be United States District Judge for the Eastern District of Louisiana, Legrome D. Davis, to be United States District Judge for the Eastern District of Pennsylvania; Scott

M. Burns, of Utah, to be Deputy Director for State and Local Affairs, Office of National Drug Control Policy; and J. Robert Flores, of Virginia, to be Administrator of the Office of Juvenile Justice and Delinquency Prevention, John B. Brown III, of Texas, to be Deputy Administrator of Drug Enforcement, Jane J. Boyle, to be United States Attorney for the Northern District of Texas, James B. Comey, to be United States Attorney for the Southern District of New York, Thomas A. Marino, to be United States Attorney for the Middle District of Pennsylvania, Matthew D. Orwig, to be United States Attorney for the Eastern District of Texas, Michael Taylor Shelby, to be United States Attorney for the Southern District of Texas, Warren Douglas Anderson, to be United States Marshal for the District of South Dakota, Patrick E. McDonald, to be United States Marshal for the District of Idaho, and James Joseph Parmley, to be United States Marshal for the Northern District of New York, all of the Department of Justice.

NOMINATIONS

Committee on the Judiciary: Committee concluded hearings on the nominations of Jeffrey R. Howard, of New Hampshire, to be United States Circuit Judge for the First Circuit, Percy Anderson, to be United States District Judge for the Central District of California, Michael M. Baylson, to be United States District Judge for the Eastern District of Pennsylvania, William C. Griesbach, to be United States District Judge for the Eastern District of Wisconsin, Joan E. Lancaster, to be United States Dis-

trict Judge for the District of Minnesota, Cynthia M. Rufe, to be United States District Judge for the Eastern District of Pennsylvania, and John F. Walter, to be United States District Judge for the Central District of California, after the nominees testified and answered questions in their own behalf. Mr. Howard was introduced by Senators Smith and Gregg, Mr. Anderson and Mr. Walter were introduced by Senator Feinstein, Mr. Baylson and Ms. Rufe were introduced by Senator Specter, Mr. Griesbach was introduced by Senator Feingold and Representatives Barrett and Green, and Ms. Lancaster was introduced by Senators Dayton and Wellstone.

DRUG LAW ENFORCEMENT

United States Senate Caucus on International Narcotics Control: Committee concluded to examine the enforcement of the nation's drug enforcement laws, focusing on the scope of the drug use and trafficking problems in rural and mid-size communities and the challenges facing local law enforcement, after receiving testimony from Asa Hutchinson, Administrator, Drug Enforcement Administration, Department of Justice; Maj. Gen. Raymond F. Rees, USA, Vice Chief, National Guard Bureau; Susan Foster, Columbia University National Center on Addiction and Substance Abuse, New York, New York; Ralph A. Weisheit, Illinois State University, Normal; William E. Bryson, Camden Police Department, Camden, Delaware; and Gary Anderson, Appanoose County Sheriff Office, Centerville, Iowa.

House of Representatives

Chamber Action

Measures Introduced: 49 public bills, H.R. 4167–4215; and 4 resolutions, H.J. Res. 86–87 and H. Con. Res. 374–375, were introduced.

Pages H1281–83

Reports Filed: Reports were filed today as follows:

H.R. 476, to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions (H. Rept. 107–397);

H.R. 2628, to direct the Secretary of the Interior to conduct a study of the suitability and feasibility of establishing the Muscle Shoals National Heritage Area in Alabama (H. Rept. 107–398);

H. Con. Res. 347, authorizing the use of the Capitol Grounds for the National Peace Officers' Memorial Service (H. Rept. 107–399);

H. Con. Res. 348, authorizing the use of the Capitol Grounds for the National Book Festival (H. Rept. 107–400);

H. Con. Res. 354, authorizing the use of the Capitol Grounds for the District of Columbia Special Olympics Law Enforcement Torch Run (H. Rept. 107–401);

H. Con. Res. 356, authorizing the use of the Capitol Grounds for the Greater Washington Soap Box Derby (H. Rept. 107–402);

H.R. 3839, to reauthorize the Child Abuse Prevention and Treatment Act, amended (H. Rept. 107–403);

H.R. 3801, to provide for improvement of Federal education research, statistics, evaluation, information, and dissemination, amended (H. Rept. 107-404); and

H.R. 3983, to ensure the security of maritime transportation in the United States against acts of terrorism, amended (H. Rept. 107-405). **Page H1281**

Journal Vote: Agreed to the Speaker's approval of the Journal of Wednesday, April 10 by a recorded vote of 360 ayes to 56 noes with 1 voting "present," Roll No. 89. **Pages H1203, H1216-17**

Pension Security Act: The House passed H.R. 3762, to amend title I of the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to provide additional protections to participants and beneficiaries in individual account plans from excessive investment in employer securities and to promote the provision of retirement investment advice to workers managing their retirement income assets, and to amend the Securities Exchange Act of 1934 to prohibit insider trades during any suspension of the ability of plan participants or beneficiaries to direct investment away from equity securities of the plan sponsor by a recorded vote of 255 ayes to 163 noes, Roll No. 92. **Pages H1217-67**

Rejected the George Miller of California motion that sought to recommit the bill to the Committee on Education and the Workforce with instructions to report it back promptly with an amendment that treats certain funded deferred compensation plans for corporate executives as pension plans covered under the Employee Retirement Income Security Act (ERISA) of 1974 by a recorded vote of 204 ayes to 212 noes, Roll No. 91. **Pages H1264-66**

Pursuant to the rule, the amendment in the nature of a substitute printed in part A of H. Rept. 107-396, the report accompanying the rule, was considered as adopted; **Page H1221**

Rejected the George Miller of California amendment in the nature of a substitute that sought to include provisions for executive accountability and notice when executives are selling company stock, timely information for employees including regular benefit statements and independent investment advice, employee participation on pension boards, prohibition of executives from selling stock if the rank and file employees are prohibited from doing so, elimination of special treatment for executive pension plans, employee options to diversify company-matched stock after three years of plan participation, requiring plan fiduciaries to secure insurance to cover benefits and increasing criminal penalties for fiduciaries who violate workers' pension rights, pro-

viding judicial remedies to employees for plan abuses, and whistleblower protection, by a recorded vote of 187 ayes to 232 noes, Roll No. 90.

Pages H1248-64

H. Res. 386, the rule that provided for consideration of the bill was agreed to by a recorded vote of 215 ayes to 209 noes, Roll No. 88. Agreed to order the previous question by a yea-and-nay vote of 218 yeas to 208 nays, Roll No. 87. **Pages H1205-16**

Legislative Program: Representative Portman announced the legislative program for the week of April 15. **Page 1267**

Meeting Hour—Monday, April 15: Agreed that when the House adjourns today, it adjourn to meet at 2 p.m. on Monday, April 15. **Page H1267**

Meeting Hour—Tuesday, April 16: Agreed that when the House adjourns on Monday, April 15, it adjourn to meet at 12:30 p.m. on Tuesday, April 16 for morning hour debate. **Page H1267**

Calendar Wednesday: Agreed to dispense with the Calendar Wednesday business of Wednesday, April 17. **Page H1267**

Official Photographs of the House of Representatives: The House agreed to H. Res. 378, permitting official photographs of the House of Representative to be taken while the House is in actual session. **Page H1267**

Congratulating the University of Maryland Terrapins for Their NCAA National Championship: The House agreed to H. Res. 383, Congratulating the University of Maryland for winning the 2002 National Collegiate Athletic Association men's basketball championship. **Pages H1267-69**

House Permanent Select Committee on Intelligence Membership: Read a letter from Representative Hastings of Florida wherein he announced his resignation from the House Permanent Select Committee on Intelligence. Subsequently, the Chair announced the Speaker's appointment of Representative Cramer to fill the vacancy on the Committee. **Page H1269**

Quorum Calls—Votes: Two yea-and-nay votes and four recorded votes developed during the proceedings of the House today and appear on pages H1215-16, H1216, H1216-17, H1264, H1265-66, and H1266-67. There were no quorum calls.

Adjournment: The House met at 10 a.m. and adjourned at 6:05 p.m.

Committee Meetings

COMMERCE, JUSTICE, STATE AND JUDICIARY APPROPRIATIONS

Committee on Appropriations: Subcommittee on Commerce, Justice, State and Judiciary held a hearing on State Department Management. Testimony was heard from the following officials of the Department of State: Richard L. Armitage, Deputy Secretary; and Grant S. Green, Under Secretary, Management.

INTERIOR APPROPRIATIONS

Committee on Appropriations: Subcommittee on Interior held a hearing on U.S. Fish and Wildlife Service. Testimony was heard from Steven Williams, Director, U.S. Fish and Wildlife Service, Department of the Interior.

LABOR, HHS AND EDUCATION APPROPRIATIONS

Committee on Appropriations: Subcommittee on Labor, Health and Human Services, Education held a hearing on Department of Education Panel: No Child Left Behind Implementation Issues. Testimony was heard from the following officials of the Department of Education: Eugene Hickok, Under Secretary, Education; and Susan B. Neuman, Assistant Secretary, Elementary and Secondary Education.

TRANSPORTATION APPROPRIATIONS

Committee on Appropriations: Subcommittee on Transportation held a hearing on National Transportation Safety Board. Testimony was heard from Marion C. Blakey, Chairman, National Transportation Safety Board.

VA, HUD AND INDEPENDENT AGENCIES APPROPRIATIONS

Committee on Appropriations: Subcommittee on VA, HUD and Independent Agencies held a hearing on NSF. Testimony was heard from the following officials of the NSF: Eamon M. Kelly, Chairman; and Rita R. Colwell, Director, NSF.

NATIONAL DEFENSE AUTHORIZATION BUDGET REQUEST

Committee on Armed Services: Subcommittee on Military Procurement and the Subcommittee on Research and Development held a joint hearing on fiscal year 2003 National Defense Authorization budget request. Testimony was heard from the following officials of the Department of Defense: Lt. Gen. John M. Riggs, USA, Director, Objective Force-Task Force; and Lt. Gen. Edward Hanlon, USMC, Commanding General, Marine Corps Combat Development Command.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Committee on Education and the Workforce: Subcommittee on Select Education held a hearing on the "Corporation for National and Community Service." Testimony was heard from Leslie Lankowsky, CEO, Corporation For National and Community Service; and a public witness.

DRINKING WATER NEEDS AND INFRASTRUCTURE

Committee on Energy and Commerce: Subcommittee on Environment and Hazardous Materials held a hearing entitled "Drinking Water Needs and Infrastructure." Testimony was heard from Ben Grumbles, Deputy Assistant Administrator, Office of Water, EPA; Perry Beider, Principal Analyst, CBO; Dave Wood, Director, Natural Resources and Environmental Issues, GAO; and public witnesses.

NRC LICENSED FACILITIES—REVIEW ENHANCED SECURITY REQUIREMENTS

Committee on Energy and Commerce: Subcommittee on Oversight and Investigations met in executive session to hold a hearing entitled "A Review of Enhanced Security Requirements at NRC Licensed Facilities." Testimony was heard from the following officials of the NRC: Richard A. Meserve, Chairman; Nils J. Diaz, Edward McGaffigan, Jr., and Jeffrey S. Merrifield, all Commissioners; and David N. Orrik, Reactor Security Specialist, Office of Nuclear Security and Incident Response; and public witnesses.

MISCELLANEOUS MEASURES

Committee on Financial Services: Ordered reported, as amended, H.R. 2941, Brownfields Redevelopment Enhancement Act; and H.R. 3764, Securities and Exchange Commission Authorization Act of 2002.

The Committee also began markup of H.R. 3763, Corporate and Auditing Accountability, Responsibility, and Transparency Act of 2002.

Will continue April 16.

PRESIDENTIAL RECORDS ACCESS—VIEWS OF HISTORIANS

Committee on Government Reform: Held a hearing on "The Importance of Access to Presidential Records: The Views of Historians." Testimony was heard from the following historians: Robert Dallek; Richard Reeves; Stanley Kutler; and Joan Hoff.

PAPERWORK INFLATION

Committee on Government Reform: Subcommittee on Energy Policy, Natural Resources, and Regulatory Affairs held a hearing on "Paperwork Inflation-The Growing Burden on America." Testimony was heard

from John D. Graham, Administrator, Office of Information and Regulatory Affairs, OMB; Charles O. Rossotti, Commissioner, IRS, Department of the Treasury; Vic Rezendes, Managing Director; Strategic Issues, GAO; Thomas Hunt Shipman, Deputy Under Secretary, Farm and Foreign Agricultural Services, USDA; Scott Cameron, Deputy Assistant Secretary, Performance and Management, Department of the Interior; and public witnesses.

FEDERAL SUPPLY SERVICE—FEDERAL TECHNOLOGY SERVICE HOW PURCHASING AGENCIES CHOOSE

Committee on Government Reform: Subcommittee on Technology and Procurement held a hearing on "Making Sense of Procurement's Alphabet Soup: How Purchasing Agencies Choose Between FSS and FTS." Testimony was heard from David E. Cooper, Director, Acquisition and Sourcing Management, GAO; Stephen Perry, Administrator, GSA; Claudia S. Knott, Executive Director, Logistics Policy and Acquisition Management, Defense Logistics Agency, Department of Defense; and public witnesses.

U.S. POLICY TOWARD COLOMBIA

Committee on International Relations: Subcommittee on the Western Hemisphere held a hearing on U.S. Policy Toward Colombia. Testimony was heard from Otto J. Reich, Assistant Secretary, Bureau of Western Hemisphere Affairs, Department of State; the following officials of the Department of Defense: Peter W. Rodman, Assistant Secretary, International Security Affairs; and Maj. Gen. Gary D. Speer, USA, Acting Commander-in-Chief, U.S. Southern Command; and public witnesses.

OVERSIGHT—CIVIL RIGHTS COMMISSION

Committee on the Judiciary: Subcommittee on the Constitution held an oversight hearing on the U.S. Commission on Civil Rights. Testimony was heard from the following officials of the U.S. Commission on Civil Rights: Abigail Thernstrom, Commissioner; and Les Jim, Staff Director; and public witnesses.

OVERSIGHT—U.S. PATENT AND TRADEMARK OFFICE

Committee on the Judiciary: Subcommittee on Courts, the Internet, and Intellectual Property held an oversight hearing on the U.S. Patent and Trademark Office: Operations and Fiscal Year 2003 Budget. Testimony was heard from James Rogan, Under Secretary, Intellectual Property and Director, U.S. Patent and Trademark Office, Department of Commerce; and public witnesses.

MISCELLANEOUS MEASURES

Committee on Resources: Subcommittee on Fisheries Conservation, Wildlife and Oceans held a hearing on the following bills: H.R. 3470, to clarify the boundaries of Coastal Barrier Resources System Cape Fear Unit NC0907P; H.R. 3908, North American Wetlands Conservation Reauthorization Act; and H.R. 4044, to authorize the Secretary of the Interior to provide assistance to the State of Maryland for implementation of a program to eradicate nutria and restore marshland damaged by nutria. Testimony was heard from Representative McIntyre; Cathleen Short, Assistant Director, Fisheries and Habitat Conservation, U.S. Fish and Wildlife Service, Department of the Interior; Kevin Sullivan, APHIS State Director, Wildlife Services, USDA; Edith Thompson, Invasive Species Coordinator, Department of Natural Resources, State of Maryland; and public witnesses.

MISCELLANEOUS MEASURES

Committee on Resources: Subcommittee on National Parks, Recreation and Public Lands held a hearing on the following bills: H.R. 3718, Little San Bernardino Mountains Right-of-Way Act; H.R. 3258, Reasonable Right-of-Way Fees Act of 2001; and H.R. 3307, Vicksburg National Military Park Boundary Modification Act. Testimony was heard from Representatives Cubin, Thompson of Mississippi and Bono; the following officials of the Department of the Interior: Pete Culp, Assistant Director, Minerals, Realty and Resource Protection, Bureau of Land Management; and Durand Jones, Deputy Director, National Park Service; and public witnesses.

OVERSIGHT—ADEQUACY FAA OVERSIGHT OF PASSENGER AIRCRAFT MAINTENANCE

Committee on Transportation and Infrastructure, Subcommittee on Aviation held an oversight hearing on Adequacy of FAA Oversight of Passenger Aircraft Maintenance. Testimony was heard from the following officials of the Department of Transportation: Nicholas A. Sabatini, Associate Administrator, Regulation and Certification, FAA; and Alexis M. Stefani, Assistant Inspector General, Auditing; and public witnesses.

OVERSIGHT—FEMA'S OFFICE OF NATIONAL PREPAREDNESS

Committee on Transportation and Infrastructure: Subcommittee on Economic Development, Public Buildings and Emergency Management held an oversight hearing on FEMA's Office of National Preparedness. Testimony was heard from Bruce Baughman, Director, Office of National Preparedness, FEMA; Deborah Daniels, Assistant Attorney General, Office of Justice Programs, Department of Justice; and Randall Yim, Managing Director, National Preparedness, GAO.

OVERSIGHT—PASSENGER RAIL IN AMERICA

Committee on Transportation and Infrastructure: Subcommittee on Railroads held an oversight hearing on Passenger Rail in America: What Should It Look Like? Testimony was heard from Jayetta Hecker, Director, Physical Infrastructure Issues, GAO; and public witnesses.

VETERANS LEGISLATION

Committee on Veterans' Affairs: Subcommittee on Benefits held a hearing on the following bills: H.R. 1108, to amend title 38, United States Code, to provide that remarriage of the surviving spouse of a veteran after age 55 shall not result in termination of dependence and indemnity compensation; H.R. 2095, Reservist VA Home Loan Fairness Act of 2001; H.R. 2222, Veterans Life Insurance Improvement Act of 2001; and H.R. 3731, to amend title 38, United States Code, to increase amounts available to State approving agencies to ascertain the qualifications of educational institutions for furnishing courses of education to veterans and eligible persons under the Montgomery GI Bill and under other programs of education administered by the Department of Veterans Affairs. Testimony was heard from Representatives Bilirakis and Filner; Daniel Cooper, Under Secretary, Veterans Benefits Administration, Department of Veterans Affairs; and representatives of veterans organizations.

WELFARE REFORM REAUTHORIZATION PROPOSALS

Committee on Ways and Means: Subcommittee on Human Resources held a hearing on Welfare Reform Reauthorization Proposals. Testimony was heard from Representatives Mink of Hawaii, Kaptur, Kucinich, Lee, Tierney and Reynolds; Tommy G.

Thompson, Secretary of Health and Human Services; and public witnesses.

EXPLORE PERMANENT NORMAL RELATIONS FOR RUSSIA

Committee on Ways and Means: Subcommittee on Trade held a hearing to explore Permanent Normal Relations for Russia. Testimony was heard from Representatives Lantos and Cox; Peter F. Allgeier, Deputy U.S. Trade Representative; Alan P. Larson, Under Secretary, Economic, Business, and Agricultural Affairs, Department of State; and public witnesses.

Joint Meetings**FARM BILL**

Conferees met to resolve the differences between the Senate and House passed versions of H.R. 2646, to provide for the continuation of agricultural programs through fiscal year 2011, but did not complete action thereon, and will meet again tomorrow.

**COMMITTEE MEETINGS FOR FRIDAY,
APRIL 12, 2002**

(Committee meetings are open unless otherwise indicated)

Senate

Committee on the Judiciary: Subcommittee on Immigration, to hold hearings to examine the Enhanced Border Security and Visa Entry Reform Act, 9 a.m., SD-226.

House

No committee meetings are scheduled.

Joint Meetings

Conference: meeting of conferees on H.R. 2646, to provide for the continuation of agricultural programs through fiscal year 2011, 11 a.m., HC-5 Capitol.

Next Meeting of the SENATE

10:30 a.m., Friday, April 12

Next Meeting of the HOUSE OF REPRESENTATIVES

2 p.m., Monday, April 15

Senate Chamber

Program for Friday: After the recognition of one Senator for a speech and the transaction of any morning business (not to extend beyond 11:30 a.m.), Senate will consider H.R. 3525, U.S. Border Security.

House Chamber

Program for Monday: Pro forma session.

Extensions of Remarks, as inserted in this issue

HOUSE

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